

APPENDIX I

CONSTITUTION OF THE STATE OF NORTH CAROLINA

Adopted April 24, 1868, with amendments to 1920.

See *Freeman v. Lide*, 176-434.

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this state, ordain and establish this Constitution :

Const. 1868.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general and essential principles of liberty and free government may be recognized and established, and that the relations of this state to the union and government of the United States, and those of the people of this state to the rest of the American people may be defined and affirmed, we do declare :

Const. 1868.

Section 1. The equality and rights of men. That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

Const. 1868; Decl. Independence.

State v. Hay, 126-1006; *State v. Hill*, 126-139.

Sec. 2. Political power and government. That all political power is vested in, and derived from, the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Const. 1868; Const. 1776, Decl. Rights, s. 1.

Quinn v. Lattimore, 120-428; *Nichols v. McKee*, 68-430.

Sec. 3. Internal government of the state. That the people of this state have the inherent, sole and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary for their safety and happi-

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ness; but every such right should be exercised in pursuance of the law, and consistently with the constitution of the United States.

Const. 1868; Const. 1776, Decl. Rights, s. 2.

State v. Railway, 145-496; State v. Herring, 145-418; State v. Hicks, 143-689; State v. Lewis, 142-626; Durham v. Cotton Mills, 141-616; State v. Sutton, 139-574; State v. Holoman, 139-642; State v. Patterson, 134-612; State v. Gallop, 126-979; Humphrey v. Church, 109-132; Winslow v. Winslow, 95-24.

Sec. 4. That there is no right to secede. That this state shall ever remain a member of the American Union; that the people thereof are part of the American nation; that there is no right on the part of the state to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve said union, or to sever said nation, ought to be resisted with the whole power of the state.

Const. 1868.

Sec. 5. Of allegiance to the United States government. That every citizen of this state owes paramount allegiance to the constitution and government of the United States, and that no law or ordinance of the state in contravention or subversion thereof can have any binding force.

Const. 1868.

Sec. 6. Public debt; bonds issued under ordinance of convention of 1868, 68-69, 69-70, declared invalid; exception. The state shall never assume or pay, or authorize the collection of any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; nor shall the general assembly assume or pay, or authorize the collection of any tax to pay, either directly or indirectly, expressed or implied, any debt or bond incurred, or issued, by authority of the convention of the year one thousand eight hundred and sixty-eight, nor any debt or bond incurred or issued by the legislature of the year one thousand eight hundred and sixty-eight, either at its special session of the year one thousand eight hundred and sixty-eight or at its regular sessions of the years one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, and one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, except the bonds issued to fund the interest on the old debt of the state, unless the proposing to pay the same shall have first been submitted to the people and by them ratified by the vote of a majority of all the qualified voters of the state, at a regular election held for that purpose.

Const. 1868; 1872-3, c. 85; 1879, c. 268.

Const. I, s. 6—Annot.

Comrs. v. Snuggs, 121-409; Baltzer v. State, 104-265; Horne v. State, 84-362; Brickell v. Comrs., 81-240; Davis v. Comrs., 72-441; Lance v. Hunter, 72-178; Logan v. Plummer, 70-388; Rand v. State, 65-197; R. R. v. Holden, 63-414; Galloway v. Jenkins, 63-152.

Const. I, s. 7.

Sec. 7. Exclusive emoluments, etc. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Const. 1868; Const. 1776, Decl. Rights, s. 3.

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Power Co. v. Power Co., 175-668, 171-248; Reid v. R. R., 162-355; State v. Perry, 151-661; St. George v. Hardie, 147-88; State v. Cantwell, 142-604; In re Spease Ferry, 138-219; Bray v. Williams, 137-391; Mial v. Ellington, 134-131; Ewbank v. Turner, 134-82; State v. Biggs, 133-729; Jones v. Comrs., 130-451; Hancock v. R. R., 124-255; Motley v. Warehouse Co., 122-350, 124-232; State v. Call, 121-645; Broadfoot v. Fayetteville, 121-418; Rowland v. Loan Assn., 116-879; R. R. Comrs. v. Tel. Co., 113-213; State v. Van Doran, 109-864; State v. Stovall, 103-416; Gregory v. Forbes, 96-77; Bridge Co. v. Comrs., 81-491; State v. Morris, 77-512; Simonton v. Lanier, 71-503; Barrington v. Ferry Co., 69-165; Kingsbury v. R. R., 66-284; Long v. Beard, 7-57; Bank v. Taylor, 6-266.

Sec. 8. The legislative, executive and judicial powers distinct. The legislative, executive and supreme judicial powers of the government ought to be forever separate and distinct from each other.

Const. 1868; Const. 1776, Decl. Rights, s. 4.

Lee v. Beard, 146-361; State v. Turner, 143-641; White v. Auditor, 126-605; Bird v. Gilliam, 125-79; Wilson v. Jordan, 124-705; Miller v. Alexander, 122-718; Garner v. Worth, 122-257; Caldwell v. Wilson, 121-476; Carr v. Coke, 116-236; Goodwin v. Fertilizer Works, 119-120; In re Sultan, 115-62; Herndon v. Ins. Co., 111-386; Horton v. Green, 104-401; Rencher v. Anderson, 93-105; Burton v. Spiers, 92-503; In re Oldham, 89-23; Brown v. Turner, 70-93; Railroad v. Jenkins, 68-503; Barnes v. Barnes, 53-372; Houston v. Bogle, 32-504; Hoke v. Henderson, 15-1; Robinson v. Barfield, 6-391.

Sec. 9. Of the power of suspending laws. All power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights and ought not to be exercised.

Const. 1868; Const. 1776, Decl. Rights, s. 5.

Jones v. Comrs., 130-470; Abbott v. Beddingfield, 125-268 (dissenting opinion); White v. Auditor, 126-605.

Sec. 10. Elections free. All elections ought to be free.

Const. 1868; Const. 1776, Decl. Rights, s. 6.

Sec. 11. In criminal prosecutions. In all criminal prosecutions every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defense, and not be compelled to give evidence against himself or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Const. 1868; Const. 1776, Decl. Rights, s. 7.

State v. Neville, 175-731; State v. Fowler, 172-905; State v. Cherry, 154-624; State v. Dry, 152-813; State v. Whedbee, 152-770; State v. Leeper, 146-655; State v. Cline, 146-640; State v. Railway, 145-495; State v. Dowdy, 145-433; State v. Harris, 145-456; State v. Hodge, 142-683; State v. Cole, 132-1073; In re Briggs, 135-118; Sheek v. Sain, 127-266; State v. Mitchell, 119-785; Smith v. Smith, 116-386; Holt v. Warehouse Co., 116-488; State v. Shade, 115-759; State v. Massey, 104-880; State v. Cannady, 78-540; State v. Morris, 84-756; State v. Hodson, 74-153; State v. Collins, 70-247; State v. Alman, 64-366; State v. Thomas, 64-76; State v. Tilghman, 33-513.

Sec. 12. Answers to criminal charges. No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment or impeachment.

Const. 1868; Const. 1776, Decl. Rights, s. 8.

State v. Newell, 172-933; State v. Hyman, 164-411; State v. Harris, 145-456; Ex parte McCown, 139-95; State v. Lytle, 138-742; State v. Hunter, 106-800; State v. Dunn, 95-699; State v. Powell, 86-642; State v. Moore, 104-750; State v. Cannady, 78-540; Kane v. Haywood, 66-31; State v. Simons, 68-379; State v. Moss, 47-68.

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Sec. 13. Right of jury. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial for petty misdemeanors, with the right of appeal.

Const. 1868; Const. 1776, Decl. Rights, s. 9.

Jones v. Brinkley, 174-23; State v. Newell, 172-933; State v. Hyman, 164-411; State v. Rogers, 162-656; State v. Brittain, 143-668; Ex parte McCown, 139-95; State v. Lytle, 138-742; State v. Thornton, 136-616; Hargett v. Bell, 134-396; Smith v. Paul, 133-68; State v. Ostwalt, 118-1211; State v. Gadberry, 117-818; State v. Whitaker, 114-819; State v. Best, 111-646; State v. Cutshall, 110-543; State v. Hunter, 106-800; State v. Dunn, 95-698; State v. Powell, 97-417; State v. Divine, 98-781; State v. Powell, 86-642; State v. Dudley, 83-661; State v. Cannady, 78-541; State v. Dixon, 75-275; Barnes v. Barnes, 53-366; State v. Moss, 47-68.

Sec. 14. Excessive bail. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Const. 1868; Const. 1776, Decl. Rights, s. 10. See English Bill of Rights (1689) c. 1, s. 10.

State v. Smith, 174-804; State v. Woodlief, 172-885; State v. Blake, 157-608; State v. Lance, 149-551; State v. Farrington, 141-844; State v. Hanby, 126-1066; Bryan v. Patrick, 124-661; State v. Ballard, 122-1025; State v. Apple, 121-585; State v. Reid, 106-716; State v. Pettie, 80-369; State v. Cannady, 78-543; State v. Driver, 78-423; State v. Reid, 18-377.

Sec. 15. General warrants. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

Const. 1868; Const. 1776, Decl. Rights, s. 11.

Brewer v. Wynne, 163-319; State v. Fowler, 172-905.

Sec. 16. Imprisonment for debt. There shall be no imprisonment for debt in this state, except in cases of fraud.

Const. 1868; Const. 1776, Decl. Rights, s. 39.

State v. Williams, 150-802; Ledford v. Emerson, 143-527; State v. Morgan, 141-726; State v. Torrence, 127-550; Stewart v. Bryan, 121-49; Lockhart v. Bear, 117-301; Preiss v. Cohen, 117-59; Fertilizer Co. v. Grubbs, 114-471; Burgwyn v. Hall, 108-490; State v. Earnhardt, 107-789; State v. Norman, 110-489; Winslow v. Winslow, 95-24; Kiney v. Lougenour, 97-325; Long v. McLean, 88-3; State v. Beasley, 75-212; Melvin v. Melvin, 72-384; Daniel v. Owen, 72-340; State v. Davis, 82-610; State v. Wallin, 89-578; State v. Cannady, 78-539; Pain v. Pain, 80-322; Moore v. Mullen, 77-327; Moore v. Green, 73-394; State v. Green, 71-173; State v. Palin, 63-471; Bunting v. Wright, 61-295; Burton v. Dickens, 7-103.

Sec. 17. No person taken, etc., but by law of land. No person ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty or property, but by the law of the land.

Const. 1868; Const. 1776, Decl. Rights, s. 12; Mag. Carta (1215), c. 39, (1225) c. 29.

Parker v. Comrs., 178-92; Comrs. v. Boring, 175-105; Comrs. v. State Treasurer, 174-141; Lang v. Development Co., 169-662; State v. Collins, 169-323; State v. Bullock, 161-223; Dalton v. Brown, 159-175; Lawrence v. Hardy, 151-123; Starnes v. Mfg. Co., 147-556; Caldwell Land, etc., Co. v. Smith, 146-199; State v. Williams, 146-618; Dewey v. R. R., 142-392; Anderson v. Wilkins, 142-154; State v. Morgan, 141-726; Daniels v. Home, 139-237; State v. Jones, 139-613; Cozard v. Hardware Co., 139-296; Porter v. Armstrong,

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139-179; *Ex parte McCown*, 139-95; *Mial v. Ellington*, 134-172; *Lumber Co. v. Lumber Co.*, 135-742; *Parish v. Cedar Co.*, 133-478; *Jones v. Comrs.*, 130-461; *Dyer v. Ellington*, 126-941; *State v. Hill*, 126-1139; *Herring v. Pugh*, 126-852; *Hutton v. Webb*, 124-479; 126-897; *Southport v. Stanly*, 125-464; *Hogan v. Brown*, 125-251; *Morris v. House*, 125-559; *Day's Case*, 124-362; *Caldwell v. Wilson*, 121-477; *Wood v. Bellamy*, 120-212; *Hilliard v. Asheville*, 118-845; *Call v. Wilkesboro*, 115-337; *State v. Warren*, 113-683; *Lance v. Harris*, 112-480; *Williams v. Johnson*, 112-435; *Bass v. Navigation Co.*, 111-439; *Staton v. R. R.*, 111-278; *State v. Cutshall*, 110-543; *State v. Hunter*, 106-800; *Moose v. Carson*, 104-431; *London v. Headen*, 76-72; *Rhea v. Hampton*, 101-53; *State v. Wilson*, 107-865; *Woodard v. Blue*, 103-109; *Railroad v. Ely*, 95-77; *Winslow v. Winslow*, 95-24; *Worth v. Cox*, 89-44; *Whitehead v. Latham*, 83-232; *Vann v. Pipkin*, 77-410; *State v. Morris*, 77-512; *Whitehead v. R. R.*, 87-255; *Bridge Co. v. Comrs.*, 81-491; *Pool v. Trexler*, 76-297; *Privett v. Whitaker*, 73-554; *State v. Dixon*, 75-275; *Wilson v. Charlotte*, 74-756; *State v. Mooney*, 74-100; *Brown v. Turner*, 70-93; *King v. Hunter*, 65-603; *Bank v. Jenkins*, 64-719; *Norfleet v. Cromwell*, 70-634; *Johnston v. Rankin*, 70-550; *Franklin v. Vannoy*, 66-151; *Sedberry v. Comrs.*, 66-486; *Miller v. Gibbon*, 63-635; *Schenck ex parte*, 65-353; *Koonce v. Wallace*, 52-194; *Barnes v. Barnes*, 53-372; *Cotten v. Ellis*, 52-545; *Cornelius v. Glen*, 52-512; *State v. Glen*, 52-321; *Stanmire v. Taylor*, 48-207; *State v. Matthews*, 48-452; *McNamara v. Kearns*, 24-66; *Houston v. Bogle*, 32-496; *State v. Allen*, 24-183; *Mills v. Williams*, 33-558; *State v. Johnson*, 33-647; *R. R. v. Davis*, 19-451; *Hoke v. Henderson*, 15-1; *Pipkin v. Wynne*, 13-402; *Hamilton v. Adams*, 6-161; *Oats v. Darden*, 5-500; *University v. Foy*, 5-58, 3-310.

See, also, section 19 of this article.

Sec. 18. Persons restrained of liberty. Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same, if unlawful; and such remedy ought not to be denied or delayed.

Const. 1868; Const. 1776, Decl. Rights, s. 13.

Harkins v. Cathey, 119-663; *State v. Herndon*, 107-935; *In re Schenck*, 74-607.

Sec. 19. Controversies at law respecting property. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

Const. 1868; Const. 1776, Decl. Rights, s. 14.

In re Stone, 176-336; *Crews v. Crews*, 175-168; *Walls v. Strickland*, 174-298; *Silvey v. R. R.*, 172-110; *State v. Rogers*, 162-656; *Williams v. R. R.*, 140-623; *Kearns v. R. R.*, 139-482; *Smith v. Paul*, 133-66; *Boutten v. R. R.*, 128-340; *Caldwell v. Wilson*, 121-465; *Wilson v. Featherstone*, 120-447; *Harkins v. Cathey*, 119-662; *State v. Mitchell*, 119-786; *Driller Co. v. Worth*, 117-517; *McQueen v. Bank*, 111-515; *Smith v. Hicks*, 108-248; *Lassiter v. Upchurch*, 107-411; *Railroad v. Parker*, 105-246; *Stevenson v. Felton*, 99-58; *Harris v. Shaffer*, 92-30; *Grant v. Hughes*, 96-177; *Pasour v. Lineberger*, 90-159; *Worthy v. Shields*, 90-192; *Wessel v. Rathjohn*, 89-377; *Grant v. Reese*, 82-72; *Chasteen v. Martin*, 81-51; *Overby v. Association*, 81-62; *Bernheim v. Waring*, 79-56; *Atkinson v. Whitehead*, 77-418; *Perry v. Tupper*, 77-413; *Womble v. Fraps*, 77-198; *Wilson v. Charlotte*, 74-756; *Armfield v. Brown*, 73-81; *Lippard v. Troutman*, 72-551; *Isler v. Murphy*, 71-436; *Witkowsky v. Wasson*, 71-460; *Pearson v. Caldwell*, 70-291; *Armfield v. Brown*, 70-27; *Green v. Castlebury*, 70-20; *Maxwell v. Maxwell*, 70-267; *Klutts v. McKenzie*, 65-102; *Andrews v. Pritchett*, 66-387; *White v. White*, 15-257; *Smith v. Campbell*, 10-590; *Bayard v. Singleton*, 1-5.

Sec. 20. Freedom of the press. The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

Const. 1868; Const. 1776, Decl. Rights, s. 15.

Osborn v. Leach, 135-628; *Cowan v. Fairbrother*, 118-406.

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Sec. 21. Habeas corpus. The privileges of the writ of habeas corpus shall not be suspended.

Const. 1868.

Ex parte Moore, 64-802

Sec. 22. Property qualification. As political rights and privileges are not dependent upon, or modified by, property, therefore no property qualification ought to affect the right to vote or hold office.

Const. 1868.

Wilson v. Charlotte, 74-756.

Sec. 23. Representation and taxation. The people of the state ought not to be taxed or made subject to the payment of any impost or duty without the consent of themselves, or their representatives in general assembly, freely given.

Const. 1868; Const. 1776, Decl. Rights, s. 16.

State v. Wheeler, 141-773; Winston v. Taylor, 99-210; Moore v. Fayetteville, 80-154; Worth v. Comrs., 60-617.

Sec. 24. Militia and the right to bear arms. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapons, or prevent the legislature from enacting penal statutes against said practice.

Const. 1868; Const. 1776, Decl. Rights, s. 17; Convention 1875.

State v. Barrett, 138-637; State v. Boone, 132-1107; State v. Reams, 121-556; State v. Speller, 86-697.

Sec. 25. Right of the people to assemble together. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances. But secret political societies are dangerous to the liberties of a free people, and should not be tolerated.

Const. 1868; Const. 1776, Decl. Rights, s. 18; Convention 1875.

Sec. 26. Religious liberty. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

Const. 1868; Const. 1776, Decl. Rights, s. 19.

Rodman v. Robinson, 134-503; Lord v. Hardie, 82-241; Melvin v. Easley, 52-356.

Sec. 27. Education. The people have the right to the privilege of education, and it is the duty of the state to guard and maintain that right.

Const. 1868.

Collie v. Comrs., 145-170, overruling Barksdale v. Comrs., 93-483; Lowery v. School Trustees, 140-33; Bear v. Comrs., 124-212.

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Sec. 28. Elections should be frequent. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

Const. 1868; Const. 1776, Decl. Rights, s. 20.

Sec. 29. Recurrence to fundamental principles. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Const. 1868; Const. 1776, Decl. Rights, s. 21.

Sec. 30. Hereditary emoluments, etc. No hereditary emoluments, privileges or honors ought to be granted or conferred in this state.

Const. 1868; Const. 1776, Decl. Rights, s. 22.

State v. Cantwell, 142-614; Bryan v. Patrick, 124-661; Bridge Co. v. Comrs., 81-504.

Sec. 31. Perpetuities, etc. Perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.

Const. 1868; Const. 1776, Decl. Rights, s. 23.

Allen v. Reidsville, 178-513; State v. Perry, 151-661; St. George v. Hardie, 147-88; State v. Cantwell, 142-614; In re Spease Ferry, 138-259; State v. Biggs, 133-729; Robinson v. Lamb, 126-492; Garsed v. Greensboro, 126-160; Bennett v. Comrs., 125-468; Bryan v. Patrick, 124-661; Guy v. Comrs., 122-471; Thrift v. Elizabeth City, 122-31; Railway v. Railway, 114-725; State v. Moore, 104-718; Hughes v. Hodges, 102-236; Bridge Co. v. Comrs., 81-504; Railroad v. Reid, 64-155; Simonton v. Lanier, 71-503; State v. McGowen, 37-9; State v. Gerrard, 37-210; Griffin v. Graham, 8-96; Bank v. Taylor, 6-266.

Sec. 32. Ex post facto laws. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty; wherefore no ex post facto law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done ought to be passed.

Const. 1868; Const. 1776, Decl. Rights, s. 24.

State v. Broadway, 157-598; Penland v. Barnard, 146-378; Anderson v. Wilkins, 142-154; Robinson v. Lamb, 129-16; City of Wilmington v. Cronly, 122-383; Culbreth v. Downing, 121-205; Morrison v. McDonald, 113-327; Kelly v. Fleming, 113-133; Lowe v. Harris, 112-472; State v. Ramsour, 113-642; Gilchrist v. Middleton, 108-705; Leak v. Gay, 107-468; Williams v. Weaver, 94-134; State v. Littlefield, 93-614; Burton v. Speers and Clark, 92-503; King v. Foscue, 91-116; Strickland v. Draughan, 91-103; Wilkerson v. Buchanan, 83-296; Whitehead v. Latham, 83-232; Tabor v. Ward, 83-291; Pearsall v. Kenan, 79-472; Lilly v. Purcell, 78-82; Young v. Henderson, 76-420; Libbett v. Maultsby, 71-345; Etheridge v. Vernoy, 71-184; Franklin v. Vannoy, 66-145; Johnson v. Winslow, 64-27; Jacobs v. Smallwood, 63-112; State v. Keith, 63-144; Robeson v. Brown, 63-554; State v. Bell, 61-76; Hinton v. Hinton, 61-410; Cooke v. Cooke, 61-583; Parker v. Shannonhouse, 61-209; Barnes v. Barnes, 53-366; State v. Bond, 49-9; Phillips v. Cameron, 48-391; Salter v. Bryan, 26-494; Taylor v. Harrison, 13-374; Oats v. Darden, 5-500.

Sec. 33. Slavery prohibited. Slavery and involuntary servitude, otherwise than for crime, whereof the parties shall have been duly convicted, shall be, and are hereby, forever prohibited within the state.

Const. 1868.

State v. Hairston, 63-451.

Sec. 34. State boundaries. The limits and boundaries of the state shall be and remain as they now are.

Const. 1868; Const. 1776, Decl. Rights, s. 25.

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Sec. 35. Courts shall be open. All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Const. 1868.

Osborn v. Leach, 135-628; Jones v. Comrs., 130-461; Driller Co. v. Worth, 118-746; Dunn v. Underwood, 116-526; Hewlett v. Nutt, 79-263.

Sec. 36. Soldiers in time of peace. No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Const. 1868.

Sec. 37. Other rights of the people. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

Const. 1868.

State v. Williams, 146-618; Daniels v. Homer, 139-237; Thrift v. Elizabeth City, 122-38; Railroad v. Holden, 63-410; Nichols v. McKee, 68-430; State v. Keith, 63-144; Railroad v. Reid, 64-155.

ARTICLE II

LEGISLATIVE DEPARTMENT

Section 1. Two branches. The legislative authority shall be vested in two distinct branches, both dependent on the people, to wit: a senate and house of representatives.

Const. 1868; Const. 1776, s. 1.

Wilson v. Jordan, 124-719; Comrs. v. Call, 123-323.

Sec. 2. Time of assembly. The senate and house of representatives shall meet biennially on the first Wednesday after the first Monday in January next after their election; and when assembled shall be denominated the general assembly. Neither house shall proceed upon public business unless a majority of all the members are actually present.

Const. 1868; 1872-3, c. 82; Convention 1875; Const. 1776, ss. 4, 46; Convention 1835, art. 1, s. 4, cl. 7.

Herring v. Pugh, 126-862.

Sec. 3. Number of senators. The senate shall be composed of fifty senators, biennially chosen by ballot.

Const. 1868; Convention 1835, art. 1, s. 1, cl. 1.

Sec. 4. Regulations in relation to districting the state for senators. The senate districts shall be so altered by the general assembly, at the first session after the return of every enumeration by order of congress, that each senate district shall contain, as near as may be, an equal number of inhabitants, ex-

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cluding aliens and indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district, unless such county shall be equitably entitled to two or more senators.

Const. 1868; 1872-3, c. 81.

Sec. 5. Regulations in relation to appointment of representatives. The house of representatives shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population, and each county shall have at least one representative in the house of representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the general assembly at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off.

Const. 1868; 1872-3, c. 82; Convention 1835, art. 1, s. 1, cls. 2, 3.

Comrs. v. Ballard, 69-18; Mills v. Williams, 33-563.

Sec. 6. Ratio of representation. In making the apportionment in the house of representatives, the ratio of representation shall be ascertained by dividing the amount of the population of the state, exclusive of that comprehended within those counties which do not severally contain the one hundred and twentieth part of the population of the state, by the number of representatives, less the number assigned to such counties; and in ascertaining the number of the population of the state, aliens and indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio there shall be assigned one representative; to each county containing two but not three times the said ratio, there shall be assigned two representatives, and so on progressively, and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

Const. 1868; Convention 1835, art. 1, s. 1, cl. 4.

Moffitt v. Asheville, 103-237; Comrs. v. Ballard, 69-18.

Sec. 7. Qualifications for senators. Each member of the senate shall not be less than twenty-five years of age, shall have resided in this state as a citizen two years, and shall have usually resided in the district for which he was chosen one year immediately preceding his election.

Const. 1868.

Sec. 8. Qualifications for representatives. Each member of the house of representatives shall be a qualified elector of the state, and shall have resided in the county for which he is chosen for one year immediately preceding his election.

Const. 1868.

Sec. 9. Election of officers. In the election of all officers, whose appointment shall be conferred upon the general assembly by the constitution, the vote shall be viva voce.

Const. 1868; Convention 1835, art. 1, s. 4, cl. 1.

Cherry v. Burns, 124-766; Stanford v. Ellington, 117-161.

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Sec. 10. Powers in relation to divorce and alimony. The general assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

Const. 1868; Convention 1835, art. 1, s. 4, cl. 3.

Cooke v. Cooke, 164-272; In re Boyett, 136-415; Ladd v. Ladd, 121-118; Baity v. Cranfill, 91-293.

Sec. 11. Private laws in relation to names of persons, etc. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

Const. 1868; Convention 1835, art. 1, s. 4, cl. 4.

Sec. 12. Thirty days notice shall be given anterior to passage of private laws. The general assembly shall not pass any private law, unless it shall be made to appear that thirty days notice of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law.

Const. 1868; Convention 1835, art. 1, s. 4, cl. 5.

Power Co. v. Power Co., 175-668; Cox v. Comrs., 146-584; Bray v. Williams, 137-390; Comrs. v. Coke, 116-235; Gatlin v. Tarboro, 78-119; Brodnax v. Comrs., 64-244.

Sec. 13. Vacancies. If vacancies shall occur in the general assembly by death, resignation or otherwise, writs of elections shall be issued by the governor under such regulations as may be prescribed by law.

Const. 1868; Convention 1835, art. 1, s. 4, cl. 6.

Sec. 14. Revenue. No law shall be passed to raise money on the credit of the state, or to pledge the faith of the state, directly or indirectly, for the payment of any debt, or to impose any tax upon the people of the state, or allow the counties, cities or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the general assembly and passed three several readings, which readings shall have been on three different days, and agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Const. 1868.

Road Com. v. Comrs., 178-61; Guire v. Comrs., 177-516; Wagstaff v. Highway Com., 177-354; Woodall v. Highway Com., 176-377; Wagstaff v. Highway Com., 174-377; Claywell v. Comrs., 173-657; Brown v. Comrs., 173-598; Cottrell v. Lenoir, 173-138; Hargrave v. Comrs., 168-626; Gregg v. Comrs., 162-479; Pritchard v. Comrs., 160-476, 159-636; Russell v. Troy, 159-366; Comrs. v. Comrs., 157-515; Comrs. v. Bank, 152-387; Tyson v. Salisbury, 151-468; Bank v. Lacy, 151-3; Battle v. Lacy, 150-573; Wittkowsky v. Comrs., 150-90; Lutterloh v. Fayetteville, 149-65; Cox v. Comrs., 146-584; Improvement Co. v. Comrs., 146-353; Comrs. v. Trust Co., 143-110; Fortune v. Comrs., 140-329; Comrs. v. Stafford, 138-453; Bray v. Williams, 137-390; Graves v. Comrs., 135-49; Brown v. Stewart, 134-357; Wilson v. Markley, 133-616; Debnam v. Chitty, 131-657; Hooker v. Greenville, 130-293; Cotton Mills v. Waxhaw, 130-293; Armstrong v. Stedman, 130-219; Comrs. v. DeRossett, 129-275; Black v. Comrs., 129-122; Glenn v. Wray, 126-730; Edgerton v. Water Co., 126-96; Smathers v. Comrs., 125-480; Slocumb v. Fayetteville, 125-362; Comrs. v. Payne, 123-486, 123-432; McGuire v. Williams, 123-349; Comrs. v. Call, 123-308; Charlotte

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v. Shepard, 122-602; Robinson v. Goldsboro, 122-211; Rodman v. Washington, 122-39; Mayo v. Comrs., 122-5; Comrs. v. Snuggs, 121-394; Bank v. Comrs., 119-214; Bank v. Comrs., 116-339; Jones v. Comrs., 107-265; Wood v. Oxford, 97-227; Galloway v. Jenkins, 63-147.

Sec. 15. Entails. The general assembly shall regulate entails in such a manner as to prevent perpetuities.

Const. 1868; Const. 1776, s. 43.

Sec. 16. Journals. Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the general assembly.

Const. 1868; Const. 1776, s. 46.

Wilson v. Markley, 133-616; Carr v. Coke, 116-234.

Sec. 17. Protest. Any member of either house may dissent from, and protest against, any act or resolve which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journal.

Const. 1868; Const. 1776, s. 45.

Sec. 18. Officers of the house. The house of representatives shall choose their own speaker and other officers.

Const. 1868; Const. 1776, s. 10.

Nichols v. McKee, 68-432.

Sec. 19. President of the senate. The lieutenant-governor shall preside in the senate, but shall have no vote unless it may be equally divided.

Const. 1868.

Sec. 20. Other senatorial officers. The senate shall choose its other officers and also a speaker (pro tempore) in the absence of the lieutenant-governor, or when he shall exercise the office of governor.

Const. 1868; Const. 1776, s. 10.

Nichols v. McKee, 68-432.

Sec. 21. Style of the acts. The style of the acts shall be: "The general assembly of North Carolina do enact."

Const. 1868.

State v. Patterson, 98-664.

Sec. 22. Powers of the general assembly. Each house shall be judge of the qualifications and election of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws; and the two houses may also jointly adjourn to any future day, or other place.

Const. 1868; Const. 1776, s. 10.

Sec. 23. Bills and resolutions to be read three times, etc. All bills and resolutions of a legislative nature shall be read three times in each house before they pass into laws, and shall be signed by the presiding officers of both houses.

Const. 1868; Const. 1776, s. 11.

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State v. Patterson, 134-620; Wilson v. Markley, 133-616; Cotton Mills v. Waxhaw, 130-293; Smathers v. Comrs., 125-486; Comrs. v. Snuggs, 121-400; Russell v. Ayer, 120-211; Bank v. Comrs., 119-222; Cook v. Mears, 116-592; Carr v. Coke, 116-234; Scarborough v. Robinson, 81-409.

Sec. 24. Oath for members. Each member of the general assembly, before taking his seat, shall take an oath or affirmation that he will support the constitution and laws of the United States, and the constitution of the state of North Carolina, and will faithfully discharge his duty as a member of the senate or house of representatives.

Const. 1868; Const. 1776, s. 12.

Sec. 25. Terms of office. The terms of office for senators and members of the house of representatives shall commence at the time of their election.

Const. 1868; Convention 1875.

Aderholt v. McKee, 65-259.

Sec. 26. Yeas and nays. Upon motion made and seconded in either house, by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

Const. 1868.

Sec. 27. Election for members of the general assembly. The election for members of the general assembly shall be held for the respective districts and counties, at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the general assembly may change the time of holding the elections.

Const. 1868; Convention 1875.

Aderholt v. McKee, 65-259; Loftin v. Sowers, 65-251.

Sec. 28. Pay of members and officers of the general assembly; extra session. The members of the general assembly for the term for which they have been elected shall receive as a compensation for their services the sum of four dollars per day for each day of their session, for a period not exceeding sixty days; and should they remain longer in session, they shall serve without compensation. They shall also be entitled to receive ten cents per mile, both while coming to the seat of government and while returning home, the said distance to be computed by the nearest line or route of public travel. The compensation of the presiding officers of the two houses shall be six dollars per day and mileage. Should an extra session of the general assembly be called, the members and presiding officers shall receive a like rate of compensation for a period not exceeding twenty days.

Convention 1875.

Kendall v. Stafford, 178-461; Bank v. Worth, 117-153.

Sec. 29. Limitations upon power of general assembly to enact private or special legislation. The general assembly shall not pass any local, private, or special act or resolution relating to the establishment of courts inferior to the

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superior court; relating to the appointment of justices of the peace; relating to health, sanitation, and the abatement of nuisances; changing the names of cities, towns and townships; authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys; relating to ferries or bridges; relating to nonnavigable streams; relating to cemeteries; relating to the pay of jurors; erecting new townships, or changing township lines, or establishing or changing the lines of school districts; remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury; regulating labor, trade, mining, or manufacturing; extending the time for the assessment or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability; giving effect to informal wills and deeds; nor shall the general assembly enact any such local, private or special act by the partial repeal of a general law, but the general assembly may at any time repeal local, private or special laws enacted by it. Any local, private or special act or resolution passed in violation of the provisions of this section shall be void. The general assembly shall have power to pass general laws regulating matters set out in this section.

1915, c. 99. In effect Jan. 10, 1917. See *Reade v. Durham*, 173-668; *Mills v. Comrs.*, 175-215.

Davis v. Lenoir County, 178-668; *Comrs. v. Pruden*, 178-394; *Comrs. v. Trust Co.*, 178-170; *Martin County v. Trust Co.*, 178-26; *Parvin v. Comrs.*, 177-508; *Mills v. Comrs.*, 175-215; *Highway Com. v. Malone*, 173-685; *Richardson v. Comrs.*, 173-685; *Rankin v. Gaston County*, 173-683; *Reade v. Durham*, 173-668; *Brown v. Comrs.*, 173-598.

ARTICLE III

EXECUTIVE DEPARTMENT

Section 1. Officers of the executive department; terms of office. The executive department shall consist of a governor, in whom shall be vested the supreme executive power of the state; a lieutenant-governor, a secretary of state, an auditor, a treasurer, a superintendent of public instruction, and an attorney-general, who shall be elected for a term of four years by the qualified electors of the state, at the same time and places and in the same manner as members of the general assembly are elected. Their term of office shall commence on the first day of January next after their election, and continue until their successors are elected, and qualified: Provided, that the officers first elected shall assume the duties of their office ten days after the approval of this constitution by the congress of the United States, and shall hold their offices four years from and after the first day of January.

Const. 1868; Convention 1835, art II, s. 1.

Wilson v. Jordan, 124-719; *Rhyne v. Lipscombe*, 122-652; *Caldwell v. Wilson*, 121-476; *Winslow v. Morton*, 118-490; *Battle v. McIver*, 68-467; *Howerton v. Tate*, 68-546.

Sec. 2. Qualifications of governor and lieutenant-governor. No person shall be eligible as governor or lieutenant-governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this state for two years next before the election;

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nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as lieutenant-governor or president of the senate.

Const. 1868; Const. 1776, s. 15.

Sec. 3. Returns of elections. The return of every election for officers of the executive department shall be sealed up and transmitted to the seat of government by the returning officer, directed to the speaker of the house of representatives, who shall open and publish the same in the presence of a majority of the members of both houses of the general assembly. The persons having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the general assembly. Contested elections shall be determined by a joint ballot of both houses of the general assembly, in such manner as shall be prescribed by law.

Const. 1868; Convention 1835, art. II, ss. 3, 4.

Winslow v. Morton, 118-486; O'Hara v. Powell, 80-108.

Sec. 4. Oath of office for governor. The governor, before entering upon the duties of his office, shall, in the presence of the members of both branches of the general assembly, or before any justice of the supreme court, take an oath or affirmation that he will support the constitution and laws of the United States and of the state of North Carolina, and that he will faithfully perform the duties appertaining to the office of governor to which he has been elected.

Const. 1868; Convention 1835, art. II, s. 5.

Sec. 5. Duties of governor. The governor shall reside at the seat of government of this state, and he shall, from time to time, give the general assembly information of the affairs of the state, and recommend to their consideration such measures as he shall deem expedient.

Const. 1868.

Sec. 6. Reprieves, commutations and pardons. The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall biennially communicate to the general assembly each case of reprieve, commutation or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of commutation, pardon or reprieve, and the reasons therefor.

Const. 1868; Const. 1776, s. 19.

In re Williams, 149-436; State v. Bowman, 145-452; Herring v. Pugh, 126-862; In re McMahon, 125-40; State v. Mathis, 109-815; State v. Cardwell, 95-643; State v. Alexander, 76-231; State v. Mooney, 74-98; State v. Blalock, 61-242.

Sec. 7. Annual reports from officers of executive department and of public institutions. The officers of the executive department and of the public institutions of the state shall, at least five days previous to each regular session of

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the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly; and the governor may, at any time, require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Const. 1868.

Arendell v. Worth, 125-122; *Welker v. Bledsoe*, 68-463; *Nichols v. McKee*, 68-435.

Sec. 8. Commander-in-chief. The governor shall be commander-in-chief of the militia of the state, except when they shall be called into the service of the United States.

Const. 1868; Const. 1776, s. 18.

Winslow v. Morton, 118-486.

Sec. 9. Extra session of general assembly. The governor shall have power on extraordinary occasions, by and with the advice of the council of state, to convene the general assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

Const. 1868.

Sec. 10. Officers whose appointments are not otherwise provided for. The governor shall nominate, and by and with the advice and consent of a majority of the senators-elect, appoint all officers whose offices are established by this constitution and whose appointments are not otherwise provided for.

Const. 1868; Convention 1875.

Salisbury v. Croom, 167-223; *State v. Baskerville*, 141-811; *Day's Case*, 124-366; *Ewart v. Jones*, 116-570; *University v. McIver*, 72-76; *Cloud v. Wilson*, 72-155; *Battle v. McIver*, 68-467; *Nichols v. McKee*, 68-429; *Howerton v. Tate*, 68-546; *Rogers v. McGowan*, 68-520; *Badger v. Johnson*, 68-471; *Welker v. Bledsoe*, 68-457; *Clark v. Stanley*, 66-59; *State v. Pender*, 66-317; *Railroad v. Holden*, 63-410.

Sec. 11. Duties of the lieutenant-governor. The lieutenant-governor shall be president of the senate, but shall have no vote unless the senate be equally divided. He shall, whilst acting as president of the senate, receive for his services the same pay which shall, for the same period, be allowed to the speaker of the house of representatives; and he shall receive no other compensation except when he is acting as governor.

Const. 1868.

Sec. 12. In case of impeachment of governor, or vacancy caused by death or resignation. In case of the impeachment of the governor, his failure to qualify, his absence from the state, his inability to discharge the duties of his office, or in case the office of governor shall in anywise become vacant, the powers, duties and emoluments of the office shall devolve upon the lieutenant-governor until the disabilities shall cease or a new governor shall be elected and qualified. In every case in which the lieutenant-governor shall be unable to preside over the senate, the senators shall elect one of their own number president of their body; and the powers, duties and emoluments of the office of governor shall devolve upon him whenever the lieutenant-governor shall, for any reason, be prevented

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from discharging the duties of such office as above provided, and he shall continue as acting governor until the disabilities are removed or a new governor or lieutenant-governor shall be elected and qualified. Whenever, during the recess of the general assembly, it shall become necessary for the president of the senate to administer the government, the secretary of state shall convene the senate, that they may elect such president.

Const. 1868.

Rodwell v. Rowland, 137-626; Caldwell v. Wilson, 121-476.

Sec. 13. Duties of other executive officers. The respective duties of the secretary of state, auditor, treasurer, superintendent of public instruction and attorney-general shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

Const. 1868.

Rodwell v. Rowland, 137-626; Sneed v. Bullock, 80-135; Cloud v. Wilson, 72-163; Clark v. Stanley, 66-59; Nichols v. McKee, 68-429; Battle v. McIver, 68-467; Boner v. Adams, 65-639.

Sec. 14. Council of state. The secretary of state, auditor, treasurer and superintendent of public instruction shall constitute, ex-officio, the council of state, who shall advise the governor in the execution of his office, and three of whom shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal, to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the general assembly when called for by either house. The attorney-general shall be, ex-officio, the legal adviser of the executive department.

Const. 1868; Const. 1776, s. 16.

Sec. 15. Compensation of executive officers. The officers mentioned in this article shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

Const. 1868.

Sec. 16. Seal of state. There shall be a seal of the state, which shall be kept by the governor, and used by him, as occasion may require, and shall be called "the Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the state of North Carolina, sealed with "the Great Seal of the State," signed by the governor and countersigned by the secretary of state.

Const. 1868; Const. 1776, ss. 17, 36.

Howell v. Hurley, 170-798; Richards v. Lumber Co., 158-54.

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Sec. 17. Department of agriculture, immigration and statistics. The general assembly shall establish a department of agriculture, immigration and statistics, under such regulations as may best promote the agricultural interests of the state, and shall enact laws for the adequate protection and encouragement of sheep husbandry.

Const. 1868; Convention 1875.

Cunningham v. Sprinkle, 124-638; Chemical Co. v. Board of Agriculture, 111-136.

ARTICLE IV

JUDICIAL DEPARTMENT

Section 1. Abolishes distinction between actions at law and suits in equity, and feigned issues. The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished; and there shall be in this state but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the state as a party, against a person charged with a public offense, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished, and the fact at issue tried by order of court before a jury.

Const. 1868.

Tillotson v. Currin, 176-479; Jerome v. Setzer, 175-391; Hardware Co. v. Lewis, 173-290; Makuen v. Elder, 170-510; Fowle v. McLean, 168-537; Wilson v. Ins. Co., 155-173; Hauser v. Morrison, 146-248; Levin v. Gladstein, 142-484; Turner v. McKee, 137-259; Staton v. Webb, 137-38; Boles v. Caudle, 133-528; Parker v. Express Co., 132-131; Harrison v. Hargrove, 116-418; Peebles v. Gay, 115-41; Moore v. Beaman, 112-560; Hood v. Sudderth, 111-219; Markham v. Markham, 110-356; Conley v. R. R., 109-692; Vogelhan v. Smith, 95-254; Lumber Co. v. Wallace, 93-25; Blake v. Askew, 76-326; Abrams v. Cureton, 74-526; Bitting v. Thaxton, 72-541; Tidline v. Hickerson, 72-421; Belmont v. Reilly, 71-262; Froelich v. Express Co., 67-4; Harkey v. Houston, 65-137; Tate v. Powe, 64-647; State v. McIntosh, 64-607; Mitchell v. Henderson, 63-640; State v. Baker, 63-276.

See, also, under C. S., section 399.

Sec. 2. Division of judicial powers. The judicial power of the state shall be vested in a court for the trial of impeachments, a supreme court, superior courts, courts of justices of the peace, and such other courts inferior to the supreme court as may be established by law.

Const. 1868; Convention 1875.

State v. Collins, 151-648; Hauser v. Morrison, 146-248; Ex parte McCown, 139-105; State v. Lytle, 138-741; State v. Baskerville, 141-813; Mott v. Comrs., 126-869; State v. Gallop, 126-983; Rhyne v. Lipscombe, 122-650; Caldwell v. Wilson, 121-476; McDonald v. Morrow, 119-670; Ewart v. Jones, 116-572; Express Co. v. R. R., 111-463; Wool v. Saunders, 108-739; State v. Weddington, 103-364; State v. Speaks, 95-689; State v. Spurtin, 80-363; State v. Cherry, 72-123; State v. Ketchey, 70-621; State v. Davis, 69-495; Rowark v. Gaston, 67-292; Froelich v. Express Co., 67-1; State v. Pender, 66-313; Wilmington v. Davis, 63-583; Edenton v. Wool, 65-379; Washington v. Hammons, 76-34; State v. Threadgill, 76-17; State v. Baker, 63-278; McAdoo v. Benbow, 63-461.

Sec. 3. Trial court of impeachment. The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to a quorum,

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and the judgment shall not extend beyond removal from and disqualification to hold office in this state; but the party shall be liable to indictment and punishment according to law.

Const. 1868; Convention 1835, art. III, s. 1, cls. 2, 3.

Caldwell v. Wilson, 121-476.

Sec. 4. Impeachment. The house of representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the senators present. When the governor is impeached the chief justice shall preside.

Const. 1868; Convention 1835, art. III, s. 1, cl. 3.

Sec. 5. Treason against the state. Treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Const. 1868. See Const. U. S., art. III, s. 3.

Sec. 6. Supreme court justices. The supreme court shall consist of a chief justice and four associate justices.

Const. 1868; Convention 1875; 1887, c. 212.

Sec. 7. Terms of the supreme court. The terms of the supreme court shall be held in the city of Raleigh, as now, until otherwise provided by the general assembly.

Const. 1868; Convention 1875.

State v. Marsh, 134-197.

Sec. 8. Jurisdiction of supreme court. The supreme court shall have jurisdiction to review, upon appeal, any decision of the courts below, upon any matter of law or legal inference. And the jurisdiction of said court over "issues of fact" and "questions of fact" shall be the same exercised by it before the adoption of the constitution of one thousand eight hundred and sixty-eight, and the court shall have the power to issue any remedial writs necessary to give it a general supervision and control over the proceedings of the inferior courts.

Convention 1875. See Const. 1868, art. IV, s. 10.

R. R. v. Cherokee County, 177-86; Taylor v. Johnson, 171-84; State v. Tripp, 168-150; State v. Lee, 166-250; Page v. Page, 166-90; In re Wiggins, 165-457; Mott v. R. R., 164-367; Johnson v. R. R., 163-431; Pender v. Ins. Co., 163-98; Overman v. Lanier, 156-537; State v. Webb, 155-426; In re Holley, 154-163; Harvey v. R. R., 153-567; Stokes v. Cogdell, 153-181; In re Applicants for License, 143-1; Hollingsworth v. Skelding, 142-256; Slocumb v. Construction Co., 142-354; State v. Lilliston, 141-867; Brown v. Power Co., 140-348; Barker v. R. R., 137-222; State v. Marsh, 134-185; Mott v. Comrs., 126-869; Wilson v. Jordan, 124-719; State v. Hinson, 123-757; Harkins v. Cathey, 119-658; McDonald v. Morrow, 119-670; Carr v. Coke, 116-242; State v. Whitaker, 114-818; Express Co. v. R. R., 111-463; State v. Herndon, 107-934; Farrar v. Staton, 101-78; Rencher v. Anderson, 93-105; Railroad v. Warren, 92-620; Coates v. Wilkes, 92-381; Murrill v. Murrill, 90-120; Worthy v. Shields, 90-192; Young v. Rollins, 90-125; Wessel v. Rathjohn, 89-377; McMillan v. Baker, 85-291; Greensboro v. Scott, 84-184; Shields v. Whitaker, 82-516; Simmons v. Foscue, 81-86; Jones v. Boyd, 80-258; State v. McGimsey, 80-383; Battle v. Mayo, 102-435; In re Schenck, 74-609; Keener v. Finger, 70-42; Long v. Holt, 68-53;

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Rush v. Steamboat Co., 68-74; Isler v. Brown, 67-175; State v. Jefferson, 66-309; Rogers v. Goodwin, 64-279; McKimmon v. Faulk, 63-279; Biggs ex parte, 64-202; Heilig v. Stokes, 63-612; Foushee v. Pattershall, 67-453; Perry v. Shepherd, 78-85; Graham v. Skinner, 57-94.

See, also, C. S., section 1411.

Sec. 9. Claims against the state. The supreme court shall have original jurisdiction to hear claims against the state, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the general assembly for its action.

Const. 1868.

Miller v. State, 134-272; Moody v. State Prison, 128-14; White v. Auditor, 126-598; Printing Co. v. Hoey, 124-795; Railroad v. Dortch, 124-675; Pate v. R. R., 122-878; Garner v. Worth, 122-250; Blount v. Simmons, 119-51; Burton v. Furman, 115-171; Cowles v. State, 115-173; Baltzer v. State, 109-187, 104-270; Martin v. Worth, 91-45; Clodfelter v. State, 86-51; Bain v. State, 86-49; Horne v. State, 82-382, 84-362; Sinclair v. State, 69-47; Bayne v. Jenkins, 66-358; Bledsoe v. State, 64-392; Reynolds v. State, 64-460; Rand v. State, 65-194; Battle v. Thompson, 65-408; Boner v. Adams, 65-644.

Sec. 10. Judicial districts for superior courts. The state shall be divided into nine judicial districts, for each of which a judge shall be chosen; and there shall be held a superior court in each county at least twice in each year, to continue for such time in each county as may be prescribed by law. But the general assembly may reduce or increase the number of districts.

Const. 1868; Convention 1875.

State v. Shuford, 128-588; Wilson v. Jordan, 124-705; Rhyne v. Lipscombe, 122-650; Ewart v. Jones, 116-578; State v. Spurtin, 80-363; State v. Taylor, 76-64; State v. Adair, 66-298.

Sec. 11. Residences of judges; rotation in judicial districts; special terms. Every judge of the superior court shall reside in the district for which he is elected. The judges shall preside in the courts of the different districts successively, but no judge shall hold the courts in the same district oftener than once in four years; but in case of the protracted illness of the judge assigned to preside in any district, or of any other unavoidable accident to him, by reason of which he shall be unable to preside, the governor may require any judge to hold one or more specified terms in said district in lieu of the judge assigned to hold the courts of the said district; and the general assembly may by general laws provide for the selection of special or emergency judges to hold the superior courts of any county or district when the judge assigned thereto, by reason of sickness, disability, or other cause, is unable to attend and hold said court, and when no other judge is available to hold the same. Such special or emergency judges shall have the power and authority of regular judges of the superior courts, in the courts which they are so appointed to hold; and the general assembly shall provide for their reasonable compensation.

Const. 1868; Convention 1875; 1915, c. 99. Last part of section, providing for "special or emergency judges," took effect Jan. 10, 1917. See Reade v. Durham, 173-668.

Watson v. R. R., 152-215; State v. Shuford, 128-588; Mott v. Comrs., 126-866; Rhyne v. Lipscombe, 122-650; State v. Turner, 119-841; McDonald v. Morrow, 119-670; Delafield v. Stafford, 114-239; State v. Lewis, 107-967; State v. Speaks, 95-689; State v. Bowman, 80-437; State v. McGimsey, 80-377; State v. Munroe, 80-373; State v. Watson, 75-136; State v. Ketchey, 70-622; Howes v. Mauney, 66-222; State v. Adair, 66-298; Myers v. Hamilton, 65-568.

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Sec. 12. Jurisdiction of courts inferior to supreme court. The general assembly shall have no power to deprive the judicial department of any power or jurisdiction which rightfully pertains to it as a coördinate department of the government; but the general assembly shall allot and distribute that portion of this power and jurisdiction which does not pertain to the supreme court among the other courts prescribed in this constitution or which may be established by law, in such manner as it may deem best; provide also a proper system of appeals; and regulate by law, when necessary, the methods of proceeding, in the exercise of their powers, of all the courts below the supreme court, so far as the same may be done without conflict with other provisions of this constitution.

Convention 1875.

State v. Little, 175-743; Cole v. Sanders, 174-112; Jones v. Brinkley, 174-23; Corp. Com. v. R. R., 170-560; Oil Co. v. Grocery Co., 169-521; State v. Brown, 159-467; State v. Collins, 151-648; State v. Shine, 149-480; Lee v. Beard, 146-361; Duckworth v. Mull, 143-469; In re Applicants for License, 143-1; State v. Baskerville, 141-813; Settle v. Settle, 141-564; Corp. Com. v. R. R., 139-126; Ex parte McCown, 139-105; State v. Lytle, 138-741; State v. Lew, 133-666; Brinkley v. Smith, 130-225; In re Gorham, 129-490; State v. Brown, 127-564; Mott v. Comrs., 126-868; State v. Davis, 126-1007; State v. Battle, 126-1036; McCall v. Webb, 125-243; Wilson v. Jordan, 124-690; State v. Ray, 122-1098; Pate v. R. R., 122-877; Tate v. Comrs., 122-661; Rhyne v. Lipscombe, 122-650; Malloy v. Fayetteville, 122-480; Caldwell v. Wilson, 121-477; McDonald v. Morrow, 119-670; Springer v. Shavender, 118-42; Ewart v. Jones, 116-575; Express Co. v. R. R., 111-463; State v. Flowers, 109-841; In re Deaton, 105-62; State v. Moore, 104-751; Walker v. Scott, 102-487; State v. Powell, 97-417; Bynum v. Powe, 97-374; Freight Discrimination Cases, 95-435; Rencher v. Anderson, 93-105; Murrill v. Murrill, 90-120; Cheek v. Watson, 90-302; In re Oldham, 89-23; Simpson v. Jones, 82-324; State v. Munroe, 80-373; State v. Spurtin, 80-362; Walton v. Walton, 80-26; Bratton v. Davidson, 79-423; Washington v. Hammond, 76-35; State v. Upchurch, 72-33; State v. Burk, 73-266; Bryan v. Rousseau, 71-194; Credle v. Gills, 65-192; Wilmington v. Davis, 63-582; Donaldson v. Waldrop, 63-507.

Sec. 13. In case of waiver of trial by jury. In all issues of fact, joined in any court, the parties may waive the right to have the same determined by a jury; in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Const. 1868.

Lumber Co. v. Lumber Co., 137-439; Wilson v. Featherstone, 120-447; Taylor v. Smith, 118-127; Driller Co. v. Worth, 117-518; Nissen v. Mining Co., 104-309; Battle v. Mayo, 102-434; Pasour v. Lineberger, 90-159; Keener v. Finger, 70-42; Armfield v. Brown, 70-29.

See, also, C. S., sections 568, 1502.

Sec. 14. Special courts in cities. The general assembly shall provide for the establishment of special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

Const. 1868.

Oil Co. v. Grocery Co., 169-521; State v. Brown, 159-467; State v. Doster, 157-634; State v. Collins, 151-648; State v. Baskerville, 141-811; State v. Lytle, 138-741; Mott v. Comrs., 126-878; State v. Higgs, 126-1019; State v. Powell, 97-417; Washington v. Hammond, 76-34; State v. Ketchey, 70-622; State v. Pender, 66-318; State v. Walker, 65-462; Edenton v. Wool, 65-381; Wilmington v. Davis, 63-583.

Sec. 15. Clerk of the supreme court. The clerk of the supreme court shall be appointed by the court, and shall hold his office for eight years.

Const. 1868.

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Sec. 16. Election of superior court clerk. A clerk of the superior court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the general assembly.

Const. 1868.

Rodwell v. Rowland, 137-620; White v. Murray, 126-157; Clarke v. Carpenter, 81-311; University v. McIver, 72-85.

Sec. 17. Term of office. Clerks of the superior courts shall hold their offices for four years.

Const. 1868.

Rodwell v. Rowland, 137-620.

Sec. 18. Fees, salaries and emoluments. The general assembly shall prescribe and regulate the fees, salaries and emoluments of all officers provided for in this article; but the salaries of the judges shall not be diminished during their continuance in office.

Const. 1868; Convention 1835, art. III, s. 2.

In re taxation of judges' salaries, 131-692; Mott v. Comrs., 126-869; In re Walker, 82-94; Buxton v. Comrs., 82-91; Bunting v. Gales, 77-451; King v. Hunter, 65-603.

Sec. 19. What laws are, and shall be, in force. The laws of North Carolina, not repugnant to this constitution or the constitution and laws of the United States, shall be in force until lawfully altered.

Const. 1868.

State v. Baskerville, 141-811; Mott v. Comrs., 126-878; Ewart v. Jones, 116-577; State v. King, 69-422; State v. Hairston, 63-452; State v. Baker, 63-278; State v. Colbert, 75-368; Boyle v. New Berne, 64-664; State v. Underwood, 63-98; State v. Jarvis, 63-556.

Sec. 20. Disposition of actions at law and suits in equity pending when this constitution shall go into effect, etc. Actions at law and suits in equity pending when this constitution shall go into effect shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change; and all such actions and suits commenced before and pending at the adoption by the general assembly of the rules of practice and procedure herein provided for shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

Const. 1868.

Lash v. Thomas, 86-316; Patton v. Shipman, 81-349; Sharpe v. Williams, 76-91; Baldwin v. York, 71-466; Green v. Moore, 66-425; Johnson v. Sedberry, 65-1; Foard v. Alexander, 64-71; Teague v. Jones, 63-91; Gaither v. Gibson, 63-93.

Sec. 21. Election, terms of office, etc., of justices of the supreme and judges of the superior courts. The justices of the supreme court shall be elected by the qualified voters of the state, as is provided for the election of members of the general assembly. They shall hold their offices for eight years. The judges of the superior courts, elected at the first election under this amendment, shall be elected in like manner as is provided for justices of the supreme court, and shall hold their offices for eight years. The general assembly may from time

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to time provide by law that the judges of the superior courts, chosen at succeeding elections, instead of being elected by the voters of the whole state, as is herein provided for, shall be elected by the voters of their respective districts.

Const. 1868; Convention 1875.

Rodwell v. Rowland, 137-626; Tate v. Comrs., 122-663; Appendix, 114-927; Hargrove v. Hilliard, 72-169; Cloud v. Wilson, 72-155; University v. McIver, 72-76; Loftin v. Sowers, 65-251.

Sec. 22. Transaction of business in the superior courts. The superior courts shall be, at all times, open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

Const. 1868.

Mott v. Comrs., 126-869; Delafield v. Construction Co., 115-21; Bynum v. Powe, 97-374; Comrs. v. Cook, 86-19; Harrell v. Peebles, 79-26; Hervey v. Edmunds, 68-243; Hunt v. Sneed, 64-180; Green v. Moore, 66-426; McAdoo v. Benbow, 63-463; Foard v. Alexander, 64-69.

Sec. 23. Solicitors for each judicial district. A solicitor shall be elected for each judicial district by the qualified voters thereof, as is prescribed for members of the general assembly, who shall hold office for the term of four years, and prosecute on behalf of the state in all criminal actions in the superior courts, and advise the officers of justice in his district.

Const. 1868.

Rodwell v. Rowland, 137-626; Wilson v. Jordan, 124-690; Tate v. Comrs., 122-663.

Sec. 24. Sheriffs and coroners. In each county a sheriff and coroner shall be elected by the qualified voters thereof, as is prescribed for members of the general assembly, and shall hold their offices for two years. In each township there shall be a constable elected in like manner by the voters thereof, who shall hold his office for two years. When there is no coroner in a county, the clerk of the superior court for the county may appoint one for special cases. In case of a vacancy existing for any cause in any of the offices created by this section, the commissioners of the county may appoint to such office for the unexpired term.

Const. 1868; Const. 1776, s. 38.

Rodwell v. Rowland, 137-620; Rhyne v. Lipscombe, 122-650; State v. Sigman, 106-730; King v. McLure, 84-153; Worley v. Smith, 81-307; Wittkowsky v. Wasson, 69-38.

Sec. 25. Vacancies. All vacancies occurring in the offices provided for by this article of the constitution shall be filled by the appointments of the governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election for members of the general assembly, when elections shall be held to fill such offices. If any person, elected or appointed to any of said offices, shall neglect and fail to qualify, such offices shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of said offices shall hold until their successors are qualified.

Const. 1868; Convention 1875.

State v. Baskerville, 141-811; Rodwell v. Rowland, 137-620; Ewart v. Jones, 116-570; Appendix, 114-927; State v. Lewis, 107-976; Gilmer v. Holton, 98-26; King v. McLure, 84-153; Worley v. Smith, 81-307; Buchanan v. Comrs., 80-126; Hargrove v. Hilliard, 72-169; Cloud v. Wilson, 72-155; Nichols v. McKee, 68-429.

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Sec. 26. Terms of office of first officers. The officers elected at the first election held under this constitution shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the general assembly. But their terms shall begin upon the approval of this constitution by the congress of the United States.

Const. 1868.

Opinion of Judges, 114-925; Aderholt v. McKee, 65-258; Loftin v. Sowers, 65-254.

Sec. 27. Jurisdiction of justices of the peace. The several justices of the peace shall have jurisdiction, under such regulations as the general assembly shall prescribe, of civil actions founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties where the punishment cannot exceed a fine of fifty dollars or imprisonment for thirty days. And the general assembly may give to justices of the peace jurisdiction of other civil actions wherein the value of the property in controversy does not exceed fifty dollars. When an issue of fact shall be joined before a justice, on demand of either party thereto he shall cause a jury of six men to be summoned, who shall try the same. The party against whom the judgment shall be rendered in any civil action may appeal to the superior court from the same. In all cases of a criminal nature, the party against whom the judgment is given may appeal to the superior court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings, and file the same with the clerk of the superior court for his county.

Const. 1868; Convention 1875.

Jerome v. Setzer, 175-391; Oil Co. v. Grocery Co., 169-521; State v. Doster, 157-634; Wilson v. Ins. Co., 155-173; Riddle v. Milling Co., 150-689; Hauser v. Morrison, 146-248; State v. Bossee, 145-579; Duckworth v. Mull, 143-461; Brown v. Southerland, 142-614; State v. Baskerville, 141-811; State v. Lytle, 138-745; State v. Moore, 136-582; State v. Giles, 134-735, overruling State v. Ostwalt, 118-1209; Knight v. Taylor, 131-85; Cowell v. Gregory, 130-85; State v. Davis, 129-570; Mott v. Comrs., 126-869; State v. White, 125-674; State v. Ray, 122-1098; Rhyne v. Lipscombe, 122-650; Malloy v. Fayetteville, 122-480; State v. Addington, 121-540; McDonald v. Morrow, 119-674; Harkins v. Cathey, 119-665; State v. Nelson, 119-801; State v. Ivie, 118-1230; Alexander v. Gibbon, 118-805; Gambling v. Dickey, 118-986; State v. Wynne, 116-985; Williams v. Bowling, 111-295; Martin v. Goode, 111-289; Slocumb v. Shingle Co., 110-24; State v. Biggers, 108-762; Henderson v. Davis, 106-91; Durham v. Wilson, 104-598; Peck v. Culberson, 104-428; State v. Powell, 97-417, 86-640; Montague v. Mial, 89-137; Allen v. Jackson, 86-321; Morris v. Saunders, 85-140; Katzenstein v. R. R., 84-694; Boing v. R. R., 87-360; Hannah v. R. R., 87-351; Lutz v. Thompson, 87-334; Love v. Rhyne, 86-576; McLane v. Layton, 76-571; McAdoo v. Callum, 86-419; Allen v. Jackson, 86-321; Coggins v. Harrell, 86-317; Brickell v. Bell, 84-85; Fisher v. Webb, 84-44; State v. Dudley, 83-661; State v. Jones, 83-659; Derr v. Stubbs, 83-559; State v. Moore, 82-659; Dalton v. Webster, 82-282; Murphy v. McNeill, 82-221; McDonald v. Cannon, 82-247; State v. Edney, 80-360; Evans v. Williamson, 79-86; State v. Styles, 76-156; Heyer v. Beatty, 76-29; State v. Threadgill, 76-18; Nance v. R. R., 76-9; Pullen v. Green, 75-218; Hinton v. Davis, 75-18; Forsyth v. Bullock, 74-137; Hendrick v. Mayfield, 74-626; State v. Buck, 73-631; State v. Bailey, 73-70; Latham v. Rollins, 72-455; State v. Quick, 72-244; State v. Presly, 72-205; State v. Upchurch, 72-148; State v. Cherry, 72-123; State v. Perry, 71-523; Templeton v. Summers, 71-270; State v. Vermington, 71-263; Bryan v. Rousseau, 71-194; Bullinger v. Marshall, 71-520; Railroad v. Sharpe, 70-510; State v. Heidelberg, 70-496; State v. Yarborough, 70-250; Fell v. Porter, 69-140; Caldwell v. Beatty, 69-364; Davis v. Baker, 67-388; Froelich v. Express Co., 67-1; State v. Pendleton, 65-618; State v. Deaton, 65-497; Edenton v. Wool, 65-379; Hedgecock

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v. Davis, 64-650; State v. Johnson, 64-581; Wilmington v. Davis, 63-584; Winslow v. Weith, 66-432; Dulin v. Howard, 66-433; Froneburger v. Lee, 66-333; State v. Pender, 66-313; Credle v. Gibbs, 65-192; Rives v. Guthrie, 46-84.

See, also, C. S., sections 1473, 1474, 1481.

Sec. 28. Vacancies in office of justices. When the office of justice of the peace shall become vacant otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the clerk of the superior court for the county shall appoint to fill the vacancy for the unexpired term.

Const. 1868.

Rodwell v. Rowland, 137-628; Gilmer v. Holton, 98-26; Cloud v. Wilson, 72-155.

Sec. 29. Vacancies in office of superior court clerk. In case the office of clerk of a superior court for a county shall become vacant otherwise than by the expiration of the term, and in case of a failure by the people to elect, the judge of the superior court for the county shall appoint to fill the vacancy until an election can be regularly held.

Const. 1868.

Rodwell v. Rowland, 137-628; White v. Murray, 126-157; Williams v. Bowling, 111-295; Martin v. Goode, 111-289.

Sec. 30. Officers of other courts inferior to supreme court. In case the general assembly shall establish other courts inferior to the supreme court, the presiding officers and clerks thereof shall be elected in such manner as the general assembly may from time to time prescribe, and they shall hold their offices for a term not exceeding eight years.

Convention 1875.

White v. Murray, 126-157; Ewart v. Jones, 116-572; State v. Weddington, 103-364.

Sec. 31. Removal of judges of the various courts for inability. Any judge of the supreme court, or of the superior courts, and the presiding officers of such courts inferior to the supreme court as may be established by law, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both houses of the general assembly. The judge or presiding officer against whom the general assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either house of the general assembly shall act thereon.

Convention 1875. See Convention 1835, art. III, s. 2, cl. 1.

Sec. 32. Removal of clerks of the various courts for inability. Any clerk of the supreme court, or of the superior courts, or of such courts inferior to the supreme court as may be established by law, may be removed from office for mental or physical inability; the clerk of the supreme court by the judges of said court, the clerks of the superior courts by the judge riding the district, and the clerks of such courts inferior to the supreme court as may be established by law, by the presiding officers of said courts. The clerk against whom proceedings are instituted shall receive notice thereof, accompanied by a copy of the causes

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alleged for his removal, at least ten days before the day appointed to act thereon, and the clerk shall be entitled to an appeal to the next term of the superior court, and thence to the supreme court, as provided in other cases of appeals.

Convention 1875.

Sec. 33. Amendments not to vacate existing offices. The amendments made to the constitution of North Carolina by this convention shall not have the effect to vacate any office or term of office now existing under the constitution of the state, and filled, or held, by virtue of any election or appointment under the said constitution, and the laws of the state made in pursuance thereof.

Convention 1875.

State v. Moore, 136-581; Appendix, 114-928.

ARTICLE V

REVENUE AND TAXATION

Section 1. Capitation tax; exemptions. The general assembly shall levy a capitation tax on every male inhabitant of the state over twenty-one and under fifty years of age, which shall be equal on each to the tax on property valued at three hundred dollars in cash. The commissioners of the several counties may exempt from capitation tax in special cases, on account of poverty and infirmity, and the state and county capitation tax combined shall never exceed two dollars on the head.

Const. 1868.

Davis v. Lenoir, 178-668; R. R. v. Comrs., 178-449; Guire v. Comrs., 177-516; Parvin v. Comrs., 177-508; Wagstaff v. Central Highway Com., 177-354; R. R. v. Cherokee County, 177-86; Hill v. Lenoir County, 176-572; Bennett v. Comrs., 173-625; Ingram v. Johnson, 172-676; Moore v. Comrs., 172-419; Hargrave v. Comrs., 168-627; Kitchin v. Wood, 154-565; Bd. of Education v. Comrs., 150-116; Perry v. Comrs., 148-521; R. R. v. Comrs., 148-248; R. R. v. Comrs., 148-220; Collie v. Comrs., 145-172; State v. Wheeler, 141-774; Pace v. Raleigh, 140-67; Bd. of Ed. v. Comrs., 137-313; Wingate v. Parker, 136-369; State v. Ballard, 122-1026; Comrs. v. Snugg, 121-409; Russell v. Ayer, 120-180; Williams v. Comrs., 119-520; Bd. of Ed. v. Comrs., 111-578, 107-112; Jones v. Comrs., 107-248; Redmond v. Comrs., 106-137; Parker v. Comrs., 104-168; Barksdale v. Comrs., 93-472; Cromartie v. Comrs., 87-139, 85-217; Clifton v. Wynne, 80-145; French v. Wilmington, 75-477; Griffin v. Comrs., 74-701; French v. Comrs., 74-692; Brown v. Comrs., 72-388; Mauney v. Comrs., 71-486; Brothers v. Comrs., 70-726; Street v. Comrs., 70-644; Johnson v. Comrs., 67-101; Sedberry v. Comrs., 66-486; University v. Holden, 63-410; R. R. v. Holden, 63-400; Gardner v. Hall, 61-21.

Sec. 2. Application of proceeds of state and county capitation tax. The proceeds of the state and county capitation tax shall be applied to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent thereof be appropriated to the latter purpose.

Const. 1868.

Wagstaff v. Central Highway Com., 177-354; Hill v. Lenoir County, 176-572; Moose v. Comrs., 172-419; Board of Ed. v. Comrs., 150-116; Perry v. Comrs., 148-521; R. R. v. Comrs., 148-248; Collie v. Comrs., 145-170; State v. Wheeler, 141-774; Crocker v. Moore, 140-432; Bd. of Ed. v. Comrs., 137-311; School Directors v. Comrs., 127-263; Bd. of Ed. v. Comrs., 113-379; Redmond v. Comrs., 106-137; Parker v. Comrs., 104-168; Durham v. Bostick, 72-353; Jacobs v. Smallwood, 63-112.

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Sec. 3. Taxation shall be by uniform rule and ad valorem; exemptions. Laws shall be passed taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and, also, all real and personal property, according to its true value in money: Provided, notes, mortgages, and all other evidence of indebtedness given in good faith for the purchase price of a home, when said purchase price does not exceed three thousand dollars, and said notes, mortgages, and other evidence of indebtedness shall be made to run for not less than five nor more than twenty years, shall be exempt from taxation of every kind: Provided, that the interest carried by such notes and mortgages shall not exceed five and one-half per cent. The general assembly may also tax trades, professions, franchises, and incomes: Provided, that no income shall be taxed when the property from which the income is derived is taxed.

Const. 1868; 1917, c. 119, adding provisos 1 and 2, making limited exception for purchase price of homes.

Motor Corp. v. Flynt, 178-399; Bickett v. Tax Com., 177-433; Smith v. Wilkins, 164-135; State v. Bullock, 161-223; Comrs. v. Webb, 160-594; Dalton v. Brown, 159-175; State v. Williams, 158-610; Guano Co. v. Biddle, 158-212; Pullen v. Corp. Com., 152-548; Wolfenden v. Comrs., 152-83; State v. Danenburg, 151-718; Land Co. v. Smith, 151-70; R. R. v. New Bern, 147-165; Lumber Co. v. Smith, 146-198; Collie v. Comrs., 145-170; State v. Wheeler, 141-773; In re Morris Estate, 138-259; State v. Roberson, 136-587; Plymouth v. Cooper, 135-1; Lacy v. Packing Co., 134-567; Jackson v. Comrs., 130-387; State v. Hunt, 129-636; State v. Carter, 129-560; State v. Irvin, 126-989; State v. Sharp, 125-631; Collins v. Pettitt, 124-727; State v. Ballard, 122-1026; Cobb v. Comrs., 122-307; Hilliard v. Asheville, 118-845; Schaul v. Charlotte, 118-733; Rosenbaum v. Newbern, 118-83; State v. Worth, 116-1007; Loan Assn. v. Comrs., 115-410; State v. Moore, 113-697; State v. Georgia Co., 112-34; Wiley v. Comrs., 111-400; Raleigh v. Peace, 110-38; State v. Wessel, 109-735; State v. Stevenson, 109-733; State v. French, 109-722; Jones v. Comrs., 107-257; Redmond v. Comrs., 106-137; Puitt v. Comrs., 94-709; Holton v. Comrs., 93-430; Busbee v. Comrs., 93-143; Wilmington v. Macks, 86-91; Busbee v. Comrs., 93-143; Railroad v. Comrs., 91-454; Jones v. Arrington, 91-125; Cain v. Comrs., 86-8; Railroad v. Comrs., 84-504; Worth v. Comrs., 82-420; Worth v. Railroad, 89-301; Evans v. Comrs., 89-154; Belo v. Comrs., 82-415; Mowery v. Salisbury, 82-175; Hewlett v. Nutt, 79-263; Gatlin v. Tarboro, 78-119; Young v. Henderson, 76-420; Railroad v. Comrs., 75-477; French v. Wilmington, 75-477; Kyle v. Comrs., 75-445; Wilson v. Charlotte, 74-748; Rwy. Co. v. Wilmington, 72-73; R. R. v. Comrs., 72-10; Ruffin v. Comrs., 69-498; Lilly v. Comrs., 69-300; Pullen v. Comrs., 68-451; University v. Holden, 63-410.

Sec. 4. Restrictions upon the increase of the public debt except in certain contingencies. Until the bonds of the state shall be at par, the general assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the state, except to supply a casual deficit, or for suppressing invasion or insurrection, unless it shall in the same bill levy a special tax to pay the interest annually. And the general assembly shall have no power to give or lend the credit of the state in aid of any person, association, or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this constitution, or in which the state has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the state, and be approved by a majority of those who shall vote thereon.

Const. 1868.

Comrs. v. State Treasurer, 174-141; Moran v. Comrs., 168-289; Comrs. v. Snuggs, 121-402; Mauney v. Comrs., 71-486; R. R. v. Jenkins, 65-173; University v. Holden, 63-410; Galloway v. R. R., 65-147.

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Sec. 5. Property exempt from taxation. Property belonging to the state or to municipal corporations shall be exempt from taxation. The general assembly may exempt cemeteries, and property held for educational, scientific, literary, charitable, or religious purposes; also wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers; libraries and scientific instruments, or any other personal property, to a value not exceeding three hundred dollars.

Const. 1868; 1872-3, c. 83.

Wagstaff v. Central Highway Com., 177-354; Leary v. Comrs., 172-25; Southern Assembly v. Palmer, 166-75; Davis v. Salisbury, 161-56; Comrs. v. Webb, 160-594; Corp. Com. v. Construction Co., 160-582; Bd. of Ed. v. Comrs., 137-314; United Brethren v. Comrs., 115-489; Loan Assn. v. Comrs., 115-410; State v. Stevenson, 109-730; R. R. v. Comrs., 75-474, 84-504.

Sec. 6. Taxes levied for counties. The taxes levied by the commissioners of the several counties for county purposes shall be levied in like manner with the state taxes, and shall never exceed the double of the state tax, except for a special purpose, and with the special approval of the general assembly.

Const. 1868.

R. R. v. Comrs., 178-449; Comrs. v. Trust Co., 178-170; Martin County v. Trust Co., 178-26; Parvin v. Comrs., 177-508; Wagstaff v. Highway Com., 177-354; R. R. v. Cherokee County, 177-86; Hill v. Lenoir County, 176-572; Moose v. Comrs., 172-419; Pritchard v. Comrs., 160-476; Board of Ed. v. Comrs., 150-116; Perry v. Comrs., 148-521; R. R. v. Comrs., 148-248; Comrs. v. McDonald, 148-125; Collie v. Comrs., 145-181; Jones v. Comrs., 143-59; Bd. of Ed. v. Comrs., 137-311; Jones v. Comrs., 137-608; Jones v. Comrs., 135-224; State v. Sharp, 125-631; Smathers v. Comrs., 125-485; Comrs. v. Payne, 123-488; Tate v. Comrs., 122-812; Herring v. Pugh, 122-423; Williams v. Comrs., 119-520; Loan Assn. v. Comrs., 115-410; Bd. of Ed. v. Comrs., 111-578; State v. Stevenson, 109-730; Jones v. Comrs., 107-248; Redmond v. Comrs., 106-130; Parker v. Comrs., 104-168; Mace v. Comrs., 99-65; Barksdale v. Comrs., 93-472; Cromartie v. Comrs., 87-139, 85-217; Cain v. Comrs., 86-8; Clifton v. Wynne, 80-145; Young v. Henderson, 76-420; Satterthwaite v. Comrs., 76-153; French v. Wilmington, 75-477; Kyle v. Comrs., 75-445; Wilson v. Charlotte, 74-748; Griffin v. Comrs., 74-701; French v. Comrs., 74-692; R. R. v. Comrs., 74-506; 72-486; Trull v. Comrs., 72-388; Mauney v. Comrs., 71-486; Street v. Comrs., 70-644; Haughton v. Comrs., 70-466; Pullen v. Comrs., 68-451; Johnston v. Comrs., 67-101; Simmons v. Wilson, 66-336; Pegram v. Comrs., 64-557; Brodnax v. Groom, 64-244; University v. Holden, 63-410.

Sec. 7. Acts levying taxes shall state object, etc. Every act of the general assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Const. 1868.

Parker v. Comrs., 178-92; Bd. of Ed. v. Comrs., 137-311; McCless v. Meekins, 117-34; Parker v. Comrs., 104-170; Clifton v. Wynne, 80-145; R. R. v. Holden, 63-410.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. Who may vote. Every male person born in the United States, and every male person who has been naturalized, twenty-one years of age, and possessing the qualifications set out in this article, shall be entitled to vote at any election by the people in the state, except as herein otherwise provided.

1899, c. 218; 1900, c. 2.

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Woodall v. Highway Com., 176-377; Ingram v. Johnson, 172-676; State v. Knight, 169-333; Gill v. Comrs., 160-176; Pace v. Raleigh, 140-68; Clarke v. Statesville, 139-492; Quinn v. Lattimore, 120-428; In re Reid, 119-641; Harris v. Scarborough, 110-232; Hannon v. Grizzard, 89-115; State v. Jones, 82-685; Lee v. Dunn, 73-595; Van Bokkelen v. Canady, 73-198; Railroad v. Comrs., 72-486; University v. McIver, 72-76; Perry v. Whitaker, 71-475; Jacobs v. Smallwood, 63-112; Roberts v. Cannon, 20-256.

Sec. 2. Qualifications of voters. He shall have resided in the state of North Carolina for two years, in the county six months, and in the precinct, ward or other election district, in which he offers to vote, four months next preceding the election: Provided, that removal from one precinct, ward or other election district to another in the same county shall not operate to deprive any person of the right to vote in the precinct, ward or other election district from which he has removed until four months after such removal. No person who has been convicted, or who has confessed his guilt in open court upon indictment, of any crime the punishment of which now is, or may hereafter be, imprisonment in the state's prison, shall be permitted to vote, unless the said person shall be first restored to citizenship in the manner prescribed by law.

Convention 1875; 1899, c. 218; 1900, c. 2, s. 2.

State v. Windley, 178-670; Woodall v. Highway Com., 176-377; State v. Smith, 174-804; Watson v. R. R., 152-215; Cox v. Comrs., 146-584; Harris v. Scarborough, 110-232; Pace v. Raleigh, 140-68; Clarke v. Statesville, 139-492; Quinn v. Lattimore, 120-428; DeBerry v. Nicholson, 102-465; Van Bokkelen v. Canady, 73-198; Railroad v. Comrs., 72-486; Perry v. Whitaker, 71-475.

See, also, C. S., secs. 5936, 5937.

Sec. 3. Voter to be registered. Every person offering to vote shall be at the time a legally registered voter as herein prescribed, and in the manner hereafter provided by law, and the general assembly of North Carolina shall enact general registration laws to carry into effect the provisions of this article.

1899, c. 218; 1900, c. 2, s. 3.

Cox v. Comrs., 146-584; Pace v. Raleigh, 140-68; Harris v. Scarborough, 110-232.

Sec. 4. Qualification for registration; must have paid poll tax. Every person presenting himself for registration shall be able to read and write any section of the constitution in the English language; and before he shall be entitled to vote he shall have paid, on or before the first day of May of the year in which he proposes to vote, his poll tax for the previous year, as prescribed by article V, section 1, of the constitution. But no male person who was, on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any state in the United States wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election in this state by reason of his failure to possess the educational qualifications herein prescribed: Provided, he shall have registered in accordance with the terms of this section prior to December 1, 1908. The general assembly shall provide for the registration of all persons entitled to vote without the educational qualifications herein prescribed, and shall, on or before November 1, 1908, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the

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right to vote in all elections by the people in this state, unless disqualified under section 2 of this article: Provided, such person shall have paid his poll tax as above required.

Const. 1868; 1899, c. 218; 1900, c. 2, s. 4.

Ingram v. Johnson, 172-676; Moose v. Comrs., 172-419; State v. Knight, 169-333; Perry v. Comrs., 148-521; Cox v. Comrs., 146-584; Collie v. Comrs., 145-175; Pace v. Raleigh, 140-68; Clark v. Statesville, 139-492; Harris v. Scarborough, 110-232; Hannon v. Grizard, 89-115.

Sec. 5. Indivisible plan; legislative intent. That this amendment to the constitution is presented and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts, and to make them so dependent upon each other, that the whole shall stand or fall together.

1900, c. 2, s. 5.

Sec. 6. Elections by people and general assembly. All elections by the people shall be by ballot, and all elections by the general assembly shall be viva voce.

Const. 1868; 1899, c. 218.

Sec. 7. Eligibility to office; official oath. Every voter in North Carolina, except as in this article disqualified, shall be eligible to office, but before entering upon the duties of the office, he shall take and subscribe the following oath:

“I, _____, do solemnly swear (or affirm) that I will support and maintain the constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office, as _____ So help me, God.”

1899, c. 218; 1900, c. 2, s. 7.

Cole v. Sanders, 174-112; State v. Knight, 169-333; State v. Bateman, 162-588.

Sec. 8. Disqualification for office. The following classes of persons shall be disqualified for office: First, all persons who shall deny the being of Almighty God. Second, all persons who shall have been convicted, or confessed their guilt on indictment pending, and whether sentenced or not, or under judgment suspended, of any treason or felony, or of any other crime for which the punishment may be imprisonment in the penitentiary, since becoming citizens of the United States, or of corruption or malpractice in office, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

1899, c. 218; 1900, c. 2, s. 8.

State v. Windley, 178-670; Bank v. Redwine, 171-559; State v. Knight, 169-333.

Sec. 9. When this chapter operative. That this amendment to the constitution shall go into effect on the first day of July, nineteen hundred and two, if a majority of votes cast at the next general election shall be cast in favor of this suffrage amendment.

1899, c. 218; 1900, c. 2, s. 9.

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ARTICLE VII

MUNICIPAL CORPORATIONS

Section 1. County officers. In each county there shall be elected biennially by the qualified voters thereof, as provided for the election of members of the general assembly, the following officers: A treasurer, register of deeds, surveyor and five commissioners.

Const. 1868.

Rhodes v. Lewis, 80-136; Van Bokkelen v. Canady, 73-198; Aderholt v. McKee, 65-257.

Sec. 2. Duty of county commissioners. It shall be the duty of the commissioners to exercise a general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes and finances of the county, as may be prescribed by law. The register of deeds shall be, ex officio, clerk of the board of commissioners.

Const. 1868.

Holmes v. Bullock, 178-376; Wilson v. Holding, 170-352; Comrs. v. Comrs., 165-632; Bunch v. Comrs., 159-335; Southern Audit Co. v. McKensie, 147-461; Crocker v. Moore, 140-433; In re Spease Ferry, 138-219; Barrington v. Ferry Co., 69-165; Canal Co. v. McAllister, 74-163; Lane v. Stanley, 65-156; R. R. v. Holden, 63-434.

See, also, C. S., secs. 1297, 1299, 1300.

Sec. 3. Counties to be divided into districts. It shall be the duty of the commissioners first elected in each county to divide the same into convenient districts, to determine the boundaries and prescribe the name of the said districts, and to report the same to the general assembly before the first day of January, 1869.

Const. 1868.

Road Com. v. Comrs., 178-61; Motor Co. v. Flynt, 178-399; Wittkowsky v. Comrs., 150-90; Wallace v. Trustees, 84-164; Gamble v. McCrady, 75-509; McNeill v. Green, 75-329; Tucker v. Raleigh, 75-267; Wilson v. Charlotte, 74-748; Canal Co. v. McAllister, 74-159; Grady v. Comrs., 74-101; Wade v. Comrs., 74-81; Bladen Co. v. Clarke, 73-255; Mitchell v. Trustees, 71-400; Barrington v. Ferry Co., 69-165; University v. Holden, 63-410; Gooch v. Gregory, 65-142; Lane v. Stanley, 65-153.

Sec. 4. Townships have corporate powers. Upon the approval of the reports provided for in the foregoing section by the general assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

Const. 1868.

Road Com. v. Comrs., 178-61; Motor Co. v. Flynt, 178-399; Mann v. Allen, 171-219; Jones v. New Bern, 152-64; Wittkowsky v. Comrs., 150-90; Crocker v. Moore, 140-429; Cotton Mills v. Waxhaw, 130-295; Brown v. Comrs., 100-92; Wallace v. Trustees, 84-164; Mitchell v. Trustees, 71-400; Payne v. Caldwell, 65-488; Lane v. Stanley, 65-153.

Sec. 5. Officers of townships. In each township there shall be biennially elected, by the qualified voters thereof, a clerk and two justices of the peace, who shall constitute a board of trustees, and shall, under the supervision of the

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county commissioners, have control of the taxes and finances, roads and bridges of the townships, as may be prescribed by law. The general assembly may provide for the election of a larger number of justices of the peace in cities and towns, and in those townships in which cities and towns are situated. In every township there shall also be biennially elected a school committee, consisting of three persons, whose duty shall be prescribed by law.

Const. 1868.

Road Com. v. Comrs., 178-61; Wallace v. Trustees, 84-164; Simpson v. Comrs., 84-158; Mitchell v. Trustees, 71-400; Haughton v. Comrs., 70-466; Edenton v. Wool, 65-379; Conoley v. Harris, 64-662; Wilmington v. Davis, 63-582.

Sec. 6. Trustees shall assess property. The township board of trustees shall assess the taxable property of their townships and make return to the county commissioners for revision, as may be prescribed by law. The clerk shall be, ex officio, treasurer of the township.

Const. 1868.

R. R. v. Comrs., 178-449; Road Com. v. Comrs., 178-62; Guire v. Comrs., 177-516; Parvin v. Comrs., 177-508; Jones v. Comrs., 107-261; R. R. v. Comrs., 84-508; Railroad v. Comrs., 82-261; Cobb v. Elizabeth City, 75-1; Railroad v. Comrs., 72-12.

Sec. 7. No debt or loan except by a majority of voters. No county, city, town or other municipal corporation shall contract any debt, pledge its faith or loan its credit, nor shall any tax be levied or collected by any officers of the same except for the necessary expenses thereof, unless by a vote of the majority of the qualified voters therein.

Const. 1868.

Davis v. Lenoir County, 178-668; Guire v. Comrs., 177-516; Parvin v. Comrs., 177-516; Hill v. Lenoir, 176-572; Williams v. Comrs., 176-554; Woodall v. Highway Com., 176-377; Comrs. v. Boring, 175-105; Comrs. v. State Treasurer, 174-141; Comrs. v. Spitzer, 173-147; Cottrell v. Lenoir, 173-138; Archer v. Joyner, 173-75; Swindell v. Belhaven, 173-1; Stephens v. Charlotte, 172-564; Moose v. Comrs., 172-419; Keith v. Lockhart, 171-451; Kinston v. Trust Co., 169-207; Hargrave v. Comrs., 168-626; Moran v. Comrs., 168-289; Comrs. v. Comrs., 165-632; Sprague v. Comrs., 165-603; Withers v. Comrs., 163-341; Pritchard v. Comrs., 160-476; Russell v. Troy, 159-366; Winston v. Bank, 158-512; Tripp v. Comrs., 158-180; Ellis v. Trustees, 156-10; Board of Trustees v. Webb, 155-379; Sanderlin v. Luken, 152-738; Highway Com. v. Webb, 152-710; Underwood v. Asheboro, 152-641; Ellison v. Williamston, 152-147; Burgin v. Smith, 151-561; Hightower v. Raleigh, 150-569; Smith v. Belhaven, 150-156; Wittkowsky v. Comrs., 150-90; Hendersonville v. Jordan, 150-35; Wharton v. Greensboro, 149-62; Perry v. Comrs., 148-521; Hollowell v. Borden, 148-255; R. R. v. Comrs., 148-248; R. R. v. Comrs., 148-220; Comrs. v. McDonald, 148-125; Comrs. v. Webb, 148-120; McLeod v. Comrs., 148-77; Swinson v. Mount Olive, 147-611; Wharton v. Greensboro, 146-356; Collie v. Comrs., 145-178; Crocker v. Moore, 140-432; Greensboro v. Scott, 138-184; Smith v. Trustees, 141-151; Jones v. Comrs., 137-579; Wingate v. Parker, 136-369; Faucett v. Mt. Airy, 134-1; Cotton Mills v. Waxhaw, 130-293; Black v. Comrs., 129-122; Broadfoot v. Fayetteville, 128-529; State v. Irvin, 126-992; Garsed v. Greensboro, 126-161; Edgerton v. Water Co., 126-93; Smathers v. Comrs., 125-488; Slocomb v. Fayetteville, 125-362; Bear v. Comrs., 124-204; Comrs. v. Payne, 123-432; Tate v. Comrs., 122-812; Charlotte v. Shepard, 122-602; Herring v. Dixon, 122-420; Rodman v. Washington, 122-39; Thrift v. Elizabeth City, 122-31; Mayo v. Comrs., 122-5; Comrs. v. Snugg, 121-403; Charlotte v. Shepard, 120-411; Williams v. Comrs., 119-520; Vaughn v. Comrs., 117-435; McCless v. Meekins, 117-34; R. R. v. Comrs., 116-563; Bank v. Comrs., 116-339; Bd. of Ed. v. Comrs., 113-379; Graded School v. Broadhurst, 109-228; R. R. v. Comrs., 109-159; Jones v. Comrs., 107-248; Parker v. Comrs., 104-168; Brown v. Comrs., 100-92; Rigsbee v. Durham, 99-341, 98-81; Gardner v. New Berne, 98-228; Wood

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v. Oxford, 97-227; McDowell v. Construction Co., 96-514; Markham v. Manning, 96-133; Duke v. Brown, 96-127; Southerland v. Goldsboro, 96-49; Halcombe v. Comrs., 89-346; Evans v. Comrs., 89-154; Shuford v. Comrs., 86-553; Norment v. Charlotte, 85-387; Simpson v. Comrs., 84-158; Gatlin v. Tarboro, 78-119; Young v. Henderson, 76-420; French v. Wilmington, 75-477; Kyle v. Comrs., 75-445; Tucker v. Raleigh, 75-267; Wilson v. Charlotte, 74-748; French v. Comrs., 74-692; Van Bokkelen v. Canady, 73-198; R. R. v. Comrs., 72-486; Trull v. Comrs., 72-388; Weinstein v. Comrs., 71-525; Reiger v. Comrs., 70-319; Payne v. Caldwell, 65-488; Lane v. Stanly, 65-153; Brodnax v. Groom, 64-244; Winslow v. Comrs., 64-218; University v. Holden, 63-410.

See, also, C. S., sections 1297, 2691.

Sec. 8. No money drawn except by law. No money shall be drawn from any county or township treasury, except by authority of law.

Const. 1868.

Faison v. Comrs., 171-411; Grady v. Comrs., 74-101.

Sec. 9. Taxes to be ad valorem. All taxes levied by any county, city, town or township shall be uniform and ad valorem upon all property in the same, except property exempted by this constitution.

Const. 1868.

Marshburn v. Jones, 176-516; Keith v. Lockhart, 171-451; Board of Trustees v. Webb, 155-379; Comrs. v. Webb, 160-594; Perry v. Comrs., 148-521; McLeod v. Comrs., 148-77; Smith v. Trustees, 141-151; Jones v. Comrs., 137-600; Wingate v. Parker, 136-369; Harper v. Comrs., 133-106; Winston v. Salem, 131-404; Ins. Co. v. Stedman, 130-223; State v. Irvin, 126-993; Hilliard v. Asheville, 118-845; Loan Assn. v. Comrs., 115-410; Wiley v. Comrs., 111-397; Raleigh v. Peace, 110-32; Redmond v. Comrs., 106-122; Jones v. Comrs., 106-122; Moore v. Comrs., 80-154; Young v. Henderson, 76-420; Cain v. Comrs., 86-15; Kyle v. Comrs., 75-447; Cobb v. Elizabeth City, 75-7; Wilson v. Charlotte, 74-754; Rwy. Co. v. Wilmington, 72-73; Grady v. Comrs., 74-101; Weinstein v. Comrs., 71-535; Pullen v. Raleigh, 68-451.

See, also, C. S., sec. 2678.

Sec. 10. When officers enter on duty. The county officers first elected under the provisions of this article shall enter upon their duties ten days after the approval of this constitution by the congress of the United States.

Const. 1868.

Sec. 11. Governor to appoint justices. The governor shall appoint a sufficient number of justices of the peace in each county, who shall hold their places until sections four, five and six of this article shall have been carried into effect.

Const. 1868.

Nichols v. McKee, 68-429.

See, also, C. S., sections 1462-1472.

Sec. 12. Charters to remain in force until legally changed. All charters, ordinances and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this constitution.

Const. 1868.

Ward v. Elizabeth City, 121-1; Dare Co. v. Currituck Co., 95-189.

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Sec. 13. Debts in aid of the rebellion not to be paid. No county, city, town or other municipal corporation shall assume to pay, nor shall any tax be levied or collected for the payment of, any debt, or the interest upon any debt, contracted directly or indirectly in aid or support of the rebellion.

Const. 1868.

Board of Trustees v. Webb, 155-379; R. R. v. Comrs., 148-220; Smith v. School Trustees, 141-157; Jones v. Comrs., 137-600; Wingate v. Parker, 136-369; Brickell v. Comrs., 81-242; Weith v. Wilmington, 68-24; Poindexter v. Davis, 67-112; Davis v. Poindexter, 72-441; Lance v. Hunter, 72-178; Logan v. Plummer, 70-388; Rand v. State, 65-194; Setzer v. Comrs., 64-516; Winslow v. Comrs., 64-218; Leak v. Comrs., 64-182.

Sec. 14. Powers of general assembly over municipal corporations. The general assembly shall have full power by statute to modify, change, or abrogate any and all of the provisions of this article, and substitute others in their place, except sections seven, nine and thirteen.

Convention 1875.

Motor Co. v. Flynt, 178-399; Road Com. v. Comrs., 178-61; Cole v. Sanders, 174-112; Mann v. Allen, 171-219; Comrs. v. Comrs., 165-632; Bunch v. Comrs., 159-335; Board of Trustees v. Webb, 155-379; Southern Audit Co. v. McKensie, 147-461; Smith v. School Trustees, 141-157; Crocker v. Moore, 140-433; Jones v. Comrs., 137-600; Wingate v. Parker, 136-369; In re Spease Ferry, 138-220; Gattis v. Griffin, 125-334; Harris v. Wright, 121-172; Bd. of Ed. v. Comrs., 111-578; Sneed v. Bullock, 80-132; Jones v. Jones, 80-127.

ARTICLE VIII

CORPORATIONS OTHER THAN MUNICIPAL

Section 1. Corporations under general laws. No corporation shall be created nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the state; but the general assembly shall provide by general laws for the chartering and organization of all corporations and for amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general laws and special acts may be altered from time to time or repealed; and the general assembly may at any time by special act repeal the charter of any corporation.

1915, c. 99. In effect Jan. 10, 1917; see Reade v. Durham, 173-668; Mills v. Comrs., 175-215; Woodall v. Highway Com., 176-377.

Mills v. Comrs., 175-215; Board of Education v. Comrs., 174-47; Stagg v. Land Co., 171-583; Mann v. Allen, 171-219; R. R. v. Oates, 164-167; Reid v. R. R., 162-355; Power Co. v. Whitney Co., 150-31; State v. Cantwell, 142-614; Coleman v. R. R., 138-354; Debnam v. Teleph. Co., 126-843; Gattis v. Griffin, 125-334; Railroad v. Dortch, 124-673; Griffin v. Water Co., 122-210; Ward v. Elizabeth City, 121-1; Wilson v. Leary, 120-92; Winslow v. Morton, 118-486; Hanstein v. Johnson, 112-253; R. R. v. Comrs., 108-60; McGowan v. Railroad, 95-417; R. R. v. Rollins, 82-523; State v. Jones, 67-210; Clark v. Stanley, 66-59; R. R. v. Reid, 64-226; R. R. v. Reid, 64-155; State v. Matthews, 56-451; State v. Petway, 55-396.

Sec. 2. Debts of corporations, how secured. Dues from corporations shall be secured by such individual liabilities of the corporations, and other means, as may be prescribed by law.

Const. 1868.

Reade v. Durham, 173-668; Van Bokkelen v. Canady, 73-198.

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Sec. 3. What corporations shall include. The term "corporation," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

Const. 1868.

Barker v. R. R., 137-223; Hanstein v. Johnson, 112-253.

Sec. 4. Legislature to provide for organizing cities, towns, etc. It shall be the duty of the legislature to provide by general laws for the organization of cities, towns, and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessment and in contracting debts by such municipal corporations.

Const. 1868; 1915, c. 99, which added "by general laws" after "to provide" and before "for the organization," and changed "assessments" to "assessment" after "abuses in" and before "and." In effect Jan. 10, 1917, see under sec. 1 of this article.

Taylor v. Greensboro, 175-423; Mills v. Comrs., 175-215; Reade v. Durham, 173-668; Bramham v. Durham, 171-196; Winston v. Bank, 158-512; Murphy v. Webb, 156-402; Ellison v. Williams, 152-147; Bradshaw v. High Point, 151-517; Perry v. Comrs., 148-521; Cox v. Comrs., 146-584; Wingate v. Parker, 136-369; Robinson v. Goldsboro, 135-382; Brockenbrough v. Comrs., 134-17; Wadsworth v. Concord, 133-587; State v. Green, 126-1032; Cotton Mills v. Waxhaw, 130-293; State v. Irvin, 126-993; Hutton v. Webb, 124-749; Rosenbaum v. Newbern, 118-84; Railway v. Railway, 114-725; Raleigh v. Peace, 110-32; Jones v. Comrs., 107-263; Gatlin v. Tarboro, 78-119; French v. Wilmington, 75-477; Tucker v. Raleigh, 75-267; Wilson v. Charlotte, 74-748; Van Bokkelen v. Canady, 73-198; Pullen v. Raleigh, 68-451; Dellinger v. Tween, 66-206.

ARTICLE IX

EDUCATION

Section 1. Education shall be encouraged. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Const. 1868; Const. 1776, sec. 41.

Bd. of Ed. v. Comrs., 178-305; Bd of Ed. v. Comrs., 174-469; Comrs. v. Bd. of Ed., 163-404; Corp. Com. v. Construction Co., 160-582; Collie v. Comrs., 145-170; Green v. Owen, 125-223; Bd. of Ed. v. Comrs., 111-582; Lane v. Stanley, 65-153; Barksdale v. Comrs., 93-472.

Sec. 2. General assembly shall provide for schools; separation of the races. The general assembly, at its first session under this constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the state between the ages of six and twenty-one years. And the children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of, or to the prejudice of, either race.

Const. 1868; Convention 1875.

Bd. of Ed. v. Comrs., 178-305; Bd. of Ed. v. Comrs., 174-469; Moose v. Comrs., 172-419; School Comrs. v. Bd. of Ed., 169-196; Johnson v. Bd. of Ed., 166-468; Comrs. v. Bd. of Ed.,

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163-404; *Williams v. Bradford*, 158-36; *Bonitz v. School Trustees*, 154-375; *State v. Wolf*, 145-440; *Collie v. Comrs.*, 145-178; *Lowery v. School Trustees*, 140-39; *Bd. of Ed. v. Comrs.*, 137-314; *Hooker v. Greenville*, 130-474; *Bear v. Comrs.*, 124-213; *Bd. of Ed. v. State Board*, 114-313; *Ed. of Ed. v. Comrs.*, 111-578; *Markham v. Manning*, 96-132; *Puitt v. Comrs.*, 94-709; *Riggsbee v. Durham*, 94-800; *R. R. v. Holden*, 63-436.

Sec. 3. Counties to be divided into districts. Each county of the state shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least six months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section, they shall be liable to indictment.

Const. 1868; 1917, c. 192, inserting "six months" for "four months" for annual school term.

Bd. of Ed. v. Comrs., 178-305; *Hill v. Lenoir County*, 176-572; *Bd. of Ed. v. Comrs.*, 174-469; *Bennett v. Comrs.*, 173-625; *Bd. of Ed. v. Comrs.*, 150-116; *R. R. v. Comrs.*, 148-220; *Collie v. Comrs.*, 145-172; *Bd. of Ed. v. Comrs.*, 111-578, 113-379; *Barksdale v. Comrs.*, 93-472.

Sec. 4. What property devoted to educational purposes. The proceeds of all lands that have been or hereafter may be granted by the United States to this state, and not otherwise appropriated by this state or the United States; also all moneys, stocks, bonds, and other property now belonging to any state fund for purposes of education; also the net proceeds of all sales of the swamp lands belonging to the state, and all other grants, gifts or devises that have been or hereafter may be made to the state, and not otherwise appropriated by the state, or by the terms of the grant, gift or devise, shall be paid into the state treasury, and, together with so much of the ordinary revenue of the state as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining in this state a system of free public schools, and for no other uses or purposes whatsoever.

Const. 1868; Convention 1875.

Collie v. Comrs., 145-186; *Bear v. Comrs.*, 124-212; *McDonald v. Morrow*, 119-674; *Sutton v. Phillips*, 116-434; *Bd. of Ed. v. Comrs.*, 111-578; *University v. Holden*, 63-410.

See, also, C. S., section 3480.

Sec. 5. County school fund; proviso. All moneys, stocks, bonds, and other property belonging to a county school fund; also the net proceeds from the sale of estrays; also the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal or military laws of the state; and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this state: Provided, that the amount collected in each county shall be annually reported to the superintendent of public instruction.

Const. 1868; Convention 1875.

In re Wiggins, 171-372; *Collie v. Comrs.*, 145-178; *State v. Maulsby*, 139-584; *School Directors v. Asheville*, 137-507; *Bearden v. Fullam*, 129-479; *School Directors v. Asheville*, 128-249; *Bd. of Ed. v. Henderson*, 126-689; *Carter v. R. R.*, 126-437; *Godwin v. Fertilizer Works*, 119-120; *Sutton v. Phillips*, 116-502; *Burrell v. Hughes*, 116-434; *Bd. of Ed. v. Comrs.*, 111-578; *Hodge v. R. R.*, 108-25; *Katzenstein v. R. R.*, 84-688; *University v. McIver*, 72-76.

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Sec. 6. Election of trustees, and provisions for maintenance, of university. The general assembly shall have power to provide for the election of trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments thereof in anywise granted to or conferred upon the trustees of said university; and the general assembly may make such provisions, laws and regulations, from time to time, as may be necessary and expedient for the maintenance and management of said university.

1872-3, c. 86. See Const. 1776, sec. 41.

Finger v. Hunter, 130-529; Brewer v. University, 110-26; University v. R. R., 76-103; University v. McIver, 72-76.

Sec. 7. Benefits of the university. The general assembly shall provide that the benefits of the university, as far as practicable, be extended to the youth of the state free of expense for tuition; also, that all the property which has heretofore accrued to the state, or shall hereafter accrue, from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons, shall be appropriated to the use of the university.

Const. 1868.

University v. R. R., 76-103; University v. Maultsby, 43-257.

Sec. 8. Board of education. The governor, lieutenant-governor, secretary of state, treasurer, auditor, superintendent of public instruction, and attorney-general shall constitute a state board of education.

Const. 1868.

Sec. 9. President and secretary. The governor shall be president and the superintendent of public instruction shall be secretary of the board of education.

Const. 1868.

Sec. 10. Powers of the board. The board of education shall succeed to all the powers and trusts of the president and directors of the literary fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the state; but all acts, rules and regulations of said board may be altered, amended or repealed by the general assembly, and when so altered, amended or repealed, they shall not be reenacted by the board.

Const. 1868.

Board v. Makely, 139-34; Dosh v. Lumber Co., 128-85; Bd. of Ed. v. State Board, 114-317.

Sec. 11. First session of the board. The first session of the board of education shall be held at the capital of the state within fifteen days after the organization of the state government under this constitution; the time of future meetings may be determined by the board.

Const. 1868.

Sec. 12. Quorum. A majority of the board shall constitute a quorum for the transaction of business.

Const. 1868.

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Sec. 13. Expenses. The contingent expenses of the board shall be provided by the general assembly.

Const. 1868.

Ewart v. Jones, 116-578.

Sec. 14. Agricultural department. As soon as practicable after the adoption of this constitution, the general assembly shall establish and maintain, in connection with the university, a department of agriculture, of mechanics, of mining, and of normal instruction.

Const. 1868.

Chemical Co. v. Board of Agriculture, 111-136.

Sec. 15. Children must attend school. The general assembly is hereby empowered to enact that every child, of sufficient mental and physical ability, shall attend the public schools during the period between the ages of six and eighteen years, for a term of not less than sixteen months, unless educated by other means.

Const. 1868.

State v. Wolf, 145-440; Bear v. Comrs., 124-212.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

Section 1. Exemption of personal property. The personal property of any resident of this state, to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any court, issued for the collection of any debt.

Const. 1868.

Befarra v. Spell, 178-231; Grocery Co. v. Bails, 177-298; Gardner v. McConnaughey, 157-481; Cromer v. Self, 149-164; McKeithen v. Blue, 142-352; Lynn v. Cotton Mills, 130-621; Chitty v. Chitty, 118-647; Lockhart v. Bear, 117-301; Jones v. Alsbrook, 115-49; Wilmington v. Sprunt, 114-310; Dickens v. Long, 109-165; Shepherd v. Murrill, 90-208; Slaughter v. Winfrey, 85-159; Smith v. McMillan, 84-583; Durham v. Speeke, 82-87; Gheen v. Summey, 80-187; Gamble v. Rhyne, 80-183; Earle v. Hardie, 80-177; Richardson v. Wicker, 80-172; Welch v. Macy, 78-240; Pemberton v. McRae, 75-497; Vann v. B. & L. Assn., 75-494; Gaster v. Hardie, 75-460; Comrs. v. Riley, 75-144; Curlee v. Thomas, 74-51; Duvall v. Rollins, 71-218; Garrett v. Chesire, 69-396; Burns v. Harris, 67-140, 66-509; Dellinger v. Tweed, 66-206; Watts v. Leggett, 66-197; Johnson v. Cross, 66-167; Horton v. McCall, 66-159; McKeithan v. Terry, 64-25; Hill v. Kessler, 63-437; Dean v. King, 35-20.

See, also, C. S., sec. 728.

Sec. 2. Homestead. Every homestead, and the dwellings and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town or village, with the dwelling and buildings used thereon, owned and occupied by any resident of this state, and not exceeding the value of one thousand

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dollars, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for the purchase of said premises.

Const. 1868.

Kirkwood v. Peden, 173-460; Sash Co. v. Parker, 153-130; Simmons v. Respass, 151-5; Carpenter v. Duke 144-291; McKeithen v. Blue, 142-352; Smith v. Bruton, 137-79; Vann v. Edwards, 135-661; Joyner v. Sugg, 132-580; Cawfield v. Owens, 129-286, 130-643; Lynn v. Cotton Mills, 130-621; Finger v. Hunter, 130-529; Watts ex parte, 130-237; Vann v. Edwards, 128-428; Coffin v. Smith, 128-255; Tiddy v. Graves, 126-620, 127-503; Toms v. Flack, 127-423; Brinkley v. Ballance, 126-396; McLamb v. McPhail, 126-618; Jennings v. Hinton, 126-48; Walton v. Bristol, 125-419; Weathers v. Borders, 124-615; Slocomb v. Ray, 123-571; Moore v. Wolf, 122-716; McGown v. McGown, 122-168; Campbell v. Potts, 119-533; Chitty v. Chitty, 118-647; Springer v. Colwell, 116-520; Jones v. Alsbrook, 115-52; Gardner v. Batts, 114-496; Fulton v. Roberts, 113-421; Vanstory v. Thornton, 112-196; Lovick v. Life Assn., 110-93; Tucker v. Tucker, 110-333; Vanstory v. Thornton, 110-10; Dickens v. Long, 109-169; Tucker v. Tucker, 108-237; Long v. Walker, 105-116; Ducker v. Wilson, 104-595; Hardy v. Carr, 104-33; Peck v. Culberson, 104-425; Hughes v. Hodges, 102-252; Jones v. Britton, 102-168; Lee v. Moseley, 101-311; Miller v. Miller, 89-402; Mebane v. Layton, 89-395; Campbell v. White, 95-491; Toms v. Fite, 93-274; Wilson v. Patton, 87-318; Butler v. Stainback, 87-216; Burton v. Spiers, 87-87; Cumming v. Bloodworth, 87-83; Murchison v. Plyler, 87-79; Gill v. Edwards, 87-76; Gregory v. Ellis, 86-579; Grant v. Edwards, 86-513; McDonald v. Dickson, 85-248; Wyche v. Wyche, 85-96; Smith v. High, 85-93; Gamble v. Watterson, 83-573; Watkins v. Overby, 83-165; Adrian v. Shaw, 82-474; Murphy v. McNeill, 82-221; Bruce v. Strickland, 81-267; Gheen v. Summey, 80-169; Richardson v. Wicker, 80-172; Wharton v. Leggett, 80-169; Suit v. Suit, 78-272; Bank v. Green, 78-247; Spoon v. Reid, 78-244; Bunting v. Jones, 78-242; Welch v. Macy, 78-240; Littlejohn v. Egerton, 77-379; Pemberton v. McRae, 75-497; Edwards v. Kearsey, 75-411; Comrs. v. Riley, 75-144; Brodie v. Batchelor, 75-51; Whitaker v. Elliott, 73-186; Abbott v. Cromartie, 72-292; Branch ex parte, 72-106; McAfee v. Bettis, 72-28; Mayho v. Cotton, 69-289; Hagar v. Nixon, 69-108; Crummen v. Bennet, 68-494; Cheatham v. Jones, 68-153; Martin v. Hughes, 67-293; Dellinger v. Tweed, 66-206; Watts v. Leggett, 66-197; Ladd v. Adams, 66-164; Poe v. Hardie, 65-447; Lute v. Reilly, 65-20; Sluder v. Rogers, 64-289; McKeithan v. Terry, 64-25.

See, also, C. S., sec. 728.

Sec. 3. Homestead exemption from debt. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children, or any one of them.

Const. 1868.

Simmons v. Respass, 151-5; Joyner v. Sugg, 132-580; Jackson v. Comrs., 130-387; Spence v. Goodman, 128-273; Bruton v. McRae, 125-201; Chitty v. Chitty, 118-647; Stern v. Lee, 115-430; Duckers v. Long, 112-317; Vanstory v. Thornton, 112-218; Hughes v. Hodges, 102-252; Jones v. Britton, 102-168; Saylor v. Powell, 90-202; Gregory v. Ellis, 86-579; Gamble v. Watterson, 83-573; Simpson v. Wallace, 83-477; Wharton v. Leggett, 80-169; Welch v. Macy, 78-240; Beavan v. Speed, 74-544; Allen v. Shields, 72-504; Hagar v. Nixon, 69-108; Poe v. Hardie, 65-447; Hill v. Kessler, 63-437.

Sec. 4. Laborer's lien. The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

Const. 1868.

Isler v. Dixon, 140-530; Vann v. Edwards, 128-425; Broyhill v. Gaither, 119-443; Paper Co. v. Chronicle, 115-146; McMillan v. Williams, 109-252; Cumming v. Bloodworth, 87-83.

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Sec. 5. Benefit of widow. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

Const. 1868.

Caudle v. Morris, 160-168; Thomas v. Bunch, 158-175; Fulp v. Brown, 153-531; Simons v. Respass, 151-5; Joyner v. Suggs, 132-580; Spence v. Goodwin, 128-277; Campbell v. Potts, 119-532; Vanstory v. Thornton, 112-218; Tucker v. Tucker, 108-237; Hughes v. Hodges, 102-252; Jones v. Britton, 102-168; Saylor v. Powell, 90-202; Simpson v. Wallace, 83-477; Richardson v. Wicker, 80-172; Wharton v. Leggett, 80-169; Beavan v. Speed, 74-544; Hagar v. Nixon, 69-108; Watts v. Leggett, 66-197; Johnson v. Cross, 66-167; Poe v. Hardie, 65-447.

See, also, C. S., sec. 748.

Sec. 6. Property of married women secured to them. The real and personal property of any female in this state acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised and bequeathed, and, with the written assent of her husband, conveyed by her as if she were unmarried.

Const. 1868.

Sills v. Bethea, 178-315; Lancaster v. Lancaster, 178-22; Deese v. Deese, 176-527; Freeman v. Lide, 176-434; Stallings v. Walker, 176-321; Gooch v. Bank, 176-213; Kilpatrick v. Kilpatrick, 176-182; Everett v. Ballard, 174-16; Freeman v. Belfer, 173-581; Satterwhite v. Gallagher, 173-525; Graves v. Johnson, 172-176; McCurry v. Furgason, 170-463; Warren v. Dail, 170-406; Butler v. Butler, 169-584; Royal v. Southerland, 168-405; Patterson v. Franklin, 168-75; McKinnon v. Caulk, 167-411; Norwood v. Totten, 166-648; Jackson v. Beard, 162-105; Greenville v. Gornto, 161-341; Sipe v. Herman, 161-107; Flanner v. Flanner, 160-126; Rea v. Rea, 156-529; Council v. Pridgen, 153-443; Richardson v. Richardson, 150-549; Jones v. Smith, 149-317; State v. Robinson, 143-620; Hodgin v. R. R., 143-93; Ball v. Paquin, 140-88; Smith v. Bruton, 137-83; Vann v. Edwards, 135-661; Perkins v. Brinkley, 133-154; State v. Jones, 132-1046; Hallyburton v. Slagle, 132-947; Ray v. Long, 132-891; Finger v. Hunter, 130-529; Watts ex parte, 130-237; Cawfield v. Owens, 129-286; Vann v. Edwards, 128-428; Coffin v. Smith, 128-255; Tiddy v. Graves, 126-620, 127-503; Toms v. Flack, 127-423; Brinkley v. Ballance, 126-396; McLamb v. McPhail, 126-218; Jennings v. Hinton, 126-48; Walton v. Bristol, 125-419; Weathers v. Borders, 124-615; Strather v. R. R., 123-198; Slocumb v. Ray, 123-571; Moore v. Wolf, 122-716; McLeod v. Williams, 122-455; Green v. Bennett, 120-396; Barrett v. Barrett, 120-131; Houck v. Somers, 118-611; Hall v. Walker, 118-380; Bank v. Howell, 118-273; Kirby v. Boyett, 118-258, 116-165; Bates v. Salton, 117-101; Zimmerman v. Robinson, 114-39; Strouse v. Cohen, 113-349; Jones v. Coffey, 109-515; Walker v. Long, 109-510; Thompson v. Wiggins, 109-508; Osborne v. Withers, 108-677; Kirkpatrick v. Holmes, 108-209; Ferguson v. Kinsland, 93-337; Southerland v. Hunter, 93-310; Long v. Barnes, 87-329; Cecil v. Smith, 81-285; O'Connor v. Harris, 81-279; Hall v. Short, 81-273; Holiday v. McMillan, 79-315; Manning v. Manning, 79-300; Manning v. Manning, 79-293; Kirkman v. Bank, 77-394; King v. Little, 77-138; Atkinson v. Richardson, 74-455; Roundtree v. Gay, 74-447; Pippen v. Wesson, 74-437; Purvis v. Carstaphan, 73-575; Harris v. Jenkins, 72-183; Shuler v. Milsaps, 71-297; Teague v. Downs, 69-280; Woody v. Smith, 65-116; Rowland v. Perry, 64-578.

See, also, C. S., sec. 2506 et seq.

Sec. 7. Husband may insure his life for the benefit of wife and children. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband the amount thus insured shall

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be paid over to the wife and children, or to the guardian, if under age, for her or their own use, free from all the claims of the representatives of her husband, or any of his creditors.

Const. 1868.

Herring v. Sutton, 129-112; Hooker v. Sugg, 102-115; Burton v. Farinholt, 86-260; Burwell v. Snow, 107-82.

Sec. 8. How deed for homestead may be made. Nothing contained in the foregoing sections of this article shall operate to prevent the owner of a homestead from disposing of the same by deed; but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

Const. 1868.

Power Co. v. Power Co., 168-219; Dalrymple v. Cole, 156-353, 170-102; Davenport v. Fleming, 154-291; Sash Co. v. Parker, 153-130; Ball v. Paquin, 140-97; Joyner v. Sugg, 132-530; Cawfield v. Owen, 129-286, 130-644; Spence v. Goodwin, 128-276; Jordan v. Newsome, 126-558; Wittkowsky v. Gidney, 124-437; McLeod v. Williams, 122-455; Bevan v. Ellis, 121-224; Barret v. Barrett, 120-131; Chitty v. Chitty, 118-648; Thomas v. Fulford, 117-673; Shaffer v. Bledsoe, 117-144; Stern v. Lee, 115-442; Allen v. Volen, 114-564; Vanstory v. Thornton, 112-196; Leak v. Gay, 107-482; Long v. Walker, 105-116; Hughes v. Hodges, 102-252; Adrian v. Shaw, 82-474; Littlejohn v. Egerton, 76-468; Beavan v. Speed, 74-544; Lambert v. Kinnery, 74-348; Mayho v. Cotton, 69-289; Poe v. Hardie, 65-447.

See, also, C. S., sec. 729.

ARTICLE XI

PUNISHMENTS, PENAL INSTITUTIONS AND PUBLIC CHARITIES

Section 1. Punishments; convict labor; proviso. The following punishments only shall be known to the laws of this state, viz.: Death, imprisonment with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under this state. The foregoing provision for imprisonment with hard labor shall be construed to authorize the employment of such convict labor on public works or highways, or other labor for public benefit, and the farming out thereof, where and in such manner as may be provided by law; but no convict shall be farmed out who has been sentenced on a charge of murder, manslaughter, rape, attempt to commit rape, or arson: Provided, that no convict whose labor may be farmed out shall be punished for any failure of duty as a laborer, except by a responsible officer of the state; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the penitentiary board or some officer of this state.

Const. 1868; Convention 1875.

State v. Nipper, 166-272; State v. Young, 138-574; State v. Burke, 73-83; State v. King, 69-419.

Sec. 2. Death punishment. The object of punishments being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary and rape, and these only, may be punishable with death, if the general assembly shall so enact.

Const. 1868.

State v. Lytle, 138-744; State v. Burke, 73-83; State v. King, 69-419.

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Sec. 3. Penitentiary. The general assembly shall, at its first meeting, make provision for the erection and conduct of a state's prison or penitentiary, at some central and accessible point within the state.

Const. 1868.

Day's Case, 124-367; Welker v. Bledsoe, 68-457; R. R. v. Holden, 63-436.

Sec. 4. Houses of correction. The general assembly may provide for the erection of houses of correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

Const. 1868.

In re Watson, 157-340; Moffitt v. Asheville, 103-237.

Sec. 5. Houses of refuge. A house or houses of refuge may be established whenever the public interest may require it, for the correction and instruction of other classes of offenders.

Const. 1868.

Sec. 6. The sexes to be separated. It shall be required, by competent legislation, that the structure and superintendence of penal institutions of the state, the county jails, and city police prisons secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

Const. 1868.

Moffitt v. Asheville, 103-237.

Sec. 7. Provision for the poor and orphans. Beneficent provision for the poor, the unfortunate and orphan, being one of the first duties of a civilized and Christian state, the general assembly shall, at its first session, appoint and define the duties of a board of public charities, to whom shall be entrusted the supervision of all charitable and penal state institutions, and who shall annually report to the governor upon their condition, with suggestions for their improvement.

Const. 1868.

Comrs. v. Spitzer, 173-147; Bd. of Ed. v. Comrs., 137-314; Miller v. Atkinson, 63-540.

Sec. 8. Orphan houses. There shall also, as soon as practicable, be measures devised by the state for the establishment of one or more orphan houses, where destitute orphans may be cared for, educated, and taught some business or trade.

Const. 1868.

Miller v. Atkinson, 63-537.

Sec. 9. Inebriates and idiots. It shall be the duty of the legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

Const. 1868.

Board of Education v. State Board, 114-313.

Sec. 10. Deaf-mutes, blind and insane. The general assembly may provide that the indigent deaf-mute, blind and insane of the state shall be cared for at the charge of the state.

Const. 1868; 1879, cc. 314, 254, 268.

In re Hoyette, 136-418; Hospital v. Fountain, 128-25; In re Hybart, 119-359.

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Sec. 11. Self-supporting. It shall be steadily kept in view by the legislature and the board of public charities that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

Const. 1868.

ARTICLE XII

MILITIA

Section 1. Who are liable to militia duty. All able-bodied male citizens of the state of North Carolina, between the ages of twenty-one and forty years, who are citizens of the United States, shall be liable to duty in the militia: Provided, that all persons who may be averse to bearing arms, from religious scruples, shall be exempt therefrom.

Const. 1868.

Sec. 2. Organizing, etc. The general assembly shall provide for the organizing, arming, equipping and discipline of the militia, and for paying the same, when called into active service.

Const. 1868.

Winslow v. Morton, 118-486; Worth v. Comrs., 118-112.

Sec. 3. Governor commander-in-chief. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the law, suppress riots or insurrection, and to repel invasion.

Const. 1868.

Winslow v. Morton, 118-486; Worth v. Comrs., 118-112.

Sec. 4. Exemptions. The general assembly shall have power to make such exemptions as may be deemed necessary, and to enact laws that may be expedient for the government of the militia.

Const. 1868.

ARTICLE XIII

AMENDMENTS

Section 1. Convention, how called. No convention of the people of this state shall ever be called by the general assembly unless by the concurrence of two-thirds of all the members of each house of the general assembly, and except the proposition, convention or no convention, be first submitted to the qualified voters of the whole state, at the next general election, in a manner to be prescribed by law. And should a majority of the votes cast be in favor of said convention, it shall assemble on such day as may be prescribed by the general assembly.

Const. 1868; Convention 1875; Convention 1835; art. IV, sec. 1.

Moose v. Comrs., 172-461.

Sec. 2. How the constitution may be altered. No part of the constitution of this state shall be altered unless a bill to alter the same shall have been

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agreed to by three-fifths of each house of the general assembly. And the amendment or amendments so agreed to shall be submitted at the next general election to the qualified voters of the whole state, in such manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become a part of the constitution of this state.

Const. 1868; Convention 1875; Convention 1835, Art. IV, sec. 1.

Reade v. Durham, 173-668; Moose v. Comrs., 172-461; University v. McIver, 72-76.

ARTICLE XIV

MISCELLANEOUS

Section 1. Indictments. All indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this constitution takes effect, may be proceeded upon in the proper courts, but no punishment shall be inflicted which is forbidden by this constitution.

Const. 1868.

Debnam v. Tel. Co., 126-835; Morris v. Hauser, 125-559; Day's Case, 124-365; State v. Moore, 120-567.

Sec. 2. Penalty for fighting duel. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the state to fight a duel, shall hold any office in this state.

Const. 1868.

Cole v. Sanders, 174-112; State v. Lord, 145-479.

Sec. 3. Drawing money. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

Const. 1868.

Martin v. Clark, 135-180; White v. Auditor, 126-602; White v. Hill, 125-200; Garner v. Worth, 122-252; Cotton Mills v. Comrs., 108-685.

Sec. 4. Mechanics' lien. The general assembly shall provide, by proper legislation, for giving to mechanics and laborers an adequate lien on the subject-matter of their labor.

Const. 1868.

Mfg. Co. v. Andrews, 165-285; Moore v. Industrial Co., 138-306; Finger v. Hunter, 130-529; Tedder v. R. R., 124-344; Lester v. Houston, 101-605; Whitaker v. Smith, 81-341.

Sec. 5. Governor to make appointments. In the absence of any contrary provision, all officers of this state, whether heretofore elected or appointed by the governor, shall hold their positions only until other appointments are made by the governor, or, if the officers are elective, until their successors shall have been chosen and duly qualified according to the provisions of this constitution.

Const. 1868.

Markham v. Simpson, 175-135.

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Sec. 6. Seat of government. The seat of government in this state shall remain at the city of Raleigh.

Const. 1868.

Sec. 7. Holding office. No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this state, or under any other state or government, shall hold or exercise any other office or place of trust or profit under the authority of this state, or be eligible to a seat in either house of the general assembly: Provided, that nothing herein contained shall extend to officers in the militia, justices of the peace, commissioners of public charities, or commissioners for special purposes.

Const. 1868; 1872-3, c. 88; Convention 1835, Art. IV, sec. 4.

Kendall v. Stafford, 178-461; Cole v. Sanders, 174-112; Bank v. Redwine, 171-559; State v. Knight, 169-333; Graves v. Barden, 169-8; Whitehead v. Pittman, 165-89; Midgett v. Gray, 158-133; McCullers v. Comrs., 158-75; State v. Lord, 145-479; State v. Smith, 145-476; Dunham v. Anders, 128-207; White v. Murray, 126-153; Downton v. Beardsley, 126-116; Barnhill v. Thompson, 122-493; Wood v. Bellamy, 120-223; Harkins v. Cathey, 119-659; Bank v. Worth, 117-152; McNeill v. Somers, 96-467; Doyle v. Raleigh, 89-133.

See, also, C. S., sec. 3200.

Sec. 8. Intermarriage of whites and negroes prohibited. All marriages between a white person and a negro, or between a white person and a person of negro descent to the third generation inclusive, are hereby forever prohibited.

Convention 1875.

Johnson v. Bd. of Ed., 166-468; Ashe v. Mfg. Co., 154-241; Ferrall v. Ferrall, 153-174; Hopkins v. Bowers, 111-175.

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